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Wisconsin

GENERAL ACTS

Wisconsin Session laws

PASSED BY THE

LEGISLATURE OF WISCONSIN,

IN THE YEAR

EIGHTEEN HUNDRED AND FIFTY-SIX;

TOGETHER WITH

MEMORIALS AND RESOLUTIONS.

PUBLISHED BY AUTHORITY.

MADISON:
GALKINS & PROUDFIT, PRINTERS.

1856.

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A223
1856

LIST OF OFFICERS.

"SECTION 1. * * * There shall be prefixed to each volume of laws hereafter published the names and residence of the several State Officers, the Senators, and Members of the Assembly, and the Presiding Officers, and Clerks of both branches of the Legislature, at the time of the passage of such laws."—*General Laws* 1854, *Chapter* 94.

NAMES AND RESIDENCE

OF THE STATE OFFICERS, SENATORS, MEMBERS OF THE ASSEMBLY, PRESIDING OFFICERS, AND CLERKS OF BOTH BRANCHES OF THE LEGISLATURE, IN OFFICE AT THE TIME OF THE PASSAGE OF THE LAWS CONTAINED IN THIS VOLUME.

NAME.	OFFICE.	RESIDENCE.	
		Nearest Post Office.	County.
Wm. A. Barstow	Governor	Waukesha	Waukesha
Arthur McArthur *	do	Milwaukee	Milwaukee
Coles Bashford	do	Oshkosh	Winnebago
Edward M. Hunter †	Private Sec'y to Governor	Madison	Dane
B. F. Hopkins †	do	Madison	Dane
Arthur McArthur	Lieutenant Governor	Milwaukee	Milwaukee
David W. Jones	Secretary of State	Cottage Inn	La Fayette
John W. Hunt	Assistant do	Madison	Dane
Charles Keuhn	State Treasurer	Two Rivers	Manitowoc
Carl Habish	Assistant do	Madison	Dane
William R. Smith	Attorney General	Mineral Point	Iowa
A. C. Barry	State Superintendent	Rochester	Racine
C. A. Orvis	Assistant do	Racine	Racine
William M. Dennis	Bank Comptroller	Watertown	Dodge
A. Menges	Deputy do	Madison	Dane
Edward McCarry	State Prison Commissioner	Waupun	Dodge
August Kruer ‡	State Librarian	Madison	Dane
Horace Rublee ‡	do	Madison	Dane

* William A. Barstow resigned the office of Governor, on the twenty-first day of March, when its duties were assumed by Arthur McArthur, Lieut. Governor, who acted until the twenty-fifth day of March, on which day Coles Bashford entered upon the duties of the office.

† E. M. Hunter, Private Secretary of Governors Barstow and McArthur; B. F. Hopkins, Private Secretary of Governor Bashford.

‡ August Kruer, Librarian until March 31st, when Horace Rublee was appointed.

NAME.	OFFICE.	RESIDENCE.	
		Nearest Post Office.	County.
J. Q. Adams	Senator	Falls River	Columbia
J. Allen Barber	do	Lancaster	Grant
S. W. Barnes	do	Waterloo	Jefferson
O. Clement	do	Racine	Racine
Amasa Cobb	do	Mineral Point	Iowa
George E. Dexter	do	Monroe	Green
Charles Dunn	do	Cottage Inn	La Fayette
J. Fitzgerald	do	Oshkosh	Winnebago
E. Gernon	do	Genesee	Waukesha
W. J. Gibson	do	Black River Falls	Jackson
H. H. Giles	do	Stoughton	Dane
B. G. Gill	do	Grafton	Ozaukee
Jackson Hadley	do	Milwaukee	Milwaukee
L. P. Harvey	do	Shopier	Rock
E. B. Kelsey	do	Montello	Marquette
J. C. Mills	do	Elkhorn	Walworth
E. O'Neil	do	Milwaukee	Milwaukee
Edward Pier	do	Fond du Lac	Fond du Lac
S. L. Rose	do	Beaver Dam	Dodge
C. L. Sholes	do	Kenosha	Kenosha
P. H. Smith	do	Appleton	Outagamie
James Sutherland	do	Janesville	Rock
David Taylor	do	Sheboygan	Sheboygan
B. S. Weil	do	Schleisingerville	Washington
D. Worthington	do	Summit	Waukesha
R. Aiken	Member of Assembly	Richland	Richland
L. Alden	do	Janesville	Rock
J. Anunson	do	Winchester	Winnebago
B. F. Barney	do	Williamstown	Dodge
Charles Beger	do	Port Washington	Ozaukee
A. A. Bird	do	Madison	Dane
Louis Bostedo	do	Weyauwega	Waupacca
R. C. Brazelton	do	Scott	Sheboygan
A. Briggs	do	Bad Ax	Bad Ax
I. Brown	do	Fond du Lac	Fond du Lac
J. T. Brown	do	Clifton	Grant
C. Burchard	do	Beaver Dam	Dodge
H. Butterfield	do	Waupun	Dodge
D. D. Cameron	do	La Crosse	La Crosse
H. Catlin	do	Cassville	Grant
W. D. Chapin	do	Bloomfield	Walworth
William Chappell	do	Watertown	Jefferson
P. G. Cheves	do	Norway	Racine
John Childs	do	Lima	Rock
W. Chipman	do	Warren	Waushara
W. M. Colladay	do	Dunn	Dane
L. Connor	do	Emmet	Dodge
E. Cram	do	Racine	Racine
J. Cramond	do	Manchester	Calumet
H. Crawford	do	Wauwatosa	Milwaukee
M. M. Davis	do	Portage City	Columbia
John Day	do	Green Bay	Brown
H. C. Drake	do	Milford	Jefferson
J. G. Ehinger	do	Clyman	Dodge

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NAME.	OFFICE.	RESIDENCE.	
		Nearest Post Office.	County.
J. M. Evans	Member of Assembly	Union	Rock
T. Falvey	do	Racine	Racine
A. W. Farr	do	Geneva	Walworth
D. Fletcher	do	Hustisford	Dodge
M. Flood	do	Brooklyn	Green
A. D. Gray	do	Hudson	St. Croix
H. H. Gray	do	Darlington	La Fayette
A. Greulich	do	Milwaukee	Milwaukee
G. Hahn	do	Milwaukee	Milwaukee
W. A. Hawkins	do	Milwaukee	Milwaukee
C. S. Hawley	do	Waukesha	Waukesha
G. H. Hayes	do	Richfield	Washington
C. R. Head	do	Albion	Dane
O. C. Howe	do	Lowville	Columbia
A. A. Huntington	do	York	Dane
John James	do	Eagle	Waukesha
H. Johnson	do	Somers	Kenosha
P. Johnson	do	Ashford	Fond du Lac
E. Knowlton	do	Highland	Iowa
J. H. Knowlton	do	Shullsburgh	La Fayette
J. Lauderdale	do	Lagrange	Walworth
P. Lavis	do	Granville	Milwaukee
A. McCormick	do	Milwaukee	Milwaukee
J. T. Mills	do	Lancaster	Grant
J. Mitchell	do	Milwaukee	Milwaukee
D. L. Morrison	do	Koshkonong	Jefferson
M. Murphy	do	Benton	La Fayette
H. J. Murray	do	Turtle	Rock
F. Newell	do	Paris	Kenosha
J. Noon	do	Merton	Waukesha
D. K. Noyes	do	Baraboo	Sauk
J. T. Palmer	do	Waterford	Racine
G. W. Parker	do	Metomen	Fond du Lac
J. F. Potter	do	East Troy	Walworth
D. Reed	do	Sullivan	Jefferson
J. Sell	do	Addison	Washington
B. F. Seymour	do	La Fayette	Walworth
R. Smith	do	Mineral Point	Iowa
Joshua Stark	do	Milwaukee	Milwaukee
A. Taylor	do	Hazel Green	Grant
H. S. Thomas	do	Moundville	Marquette
S. Thomas	do	Darien	Walworth
G. P. Thompson	do	Cross Plains	Dane
John Tobin	do	Granville	Milwaukee
S. B. Townsend	do	Nepeuskin	Winnebago
William Vogenitz	do	Cedarburgh	Ozaukee
J. Wagner	do	Marshfield	Fond du Lac
C. H. Walker	do	Manitowoc	Manitowoc
J. Weaver	do	Lisbon	Waukesha
William Wipperman	do	Mosel	Sheboygan
J. Wood	do	Grand Rapids	Portage
W. W. Woodman	do	Farmington	Jefferson
Wm. Hull, Speaker	do	Potosi	Grant

PRESIDING OFFICERS AND CLERKS.

NAME.	OFFICE.	RESIDENCE.	
		Nearest Post Office.	County.
Arthur McArthur	Lt. Gov. & Pres. of Senate.	Milwaukee	Milwaukee
William Hull	Speaker of the Assembly.	Potosi	Grant
Byron Payne	Chief Clerk of Senate	Milwaukee	Milwaukee
L. C. McKenney	Assistant do		
James Armstrong	Chief Clerk of Assembly.	Janesville	Rock
Wm. Pitt Dewey	Assistant do	Milwaukee,	Milwaukee

GENERAL LAWS

OF THE

STATE OF WISCONSIN,

TOGETHER WITH THE

MEMORIALS AND RESOLUTIONS.

CHAPTER 1.

Published January 25.

An Act to amend Chapter Eighty-five of the General Laws of 1855, entitled "An Act for attaching Columbia County to the Ninth Judicial Circuit."

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendment to act attaching Columbia county to ninth judicial circuit.

SECTION 1. Chapter Eighty-five of the general laws of Wisconsin, for eighteen hundred and fifty-five, is hereby so amended as to take effect from and after the passage of this act, and all writs and process issued out of the office of the clerk of the circuit court of said county of Columbia, since the first day of April, 1855, whether attested in the name of Alexander L. Collins, Charles H. Larabee, or Edward V. Whiton, shall be considered as legally attested. And all writs, summons, process, indictments, recognizances, appeals, and other proceedings, made returnable to the term or terms of said circuit court, as now fixed by law, shall be returnable to the second Monday of February, A. D. 1856; and all adjournments, appearances, continuances, motions and notices of any proceedings of said court, made or taken to any term of a date subsequent to the time when this act shall take effect, shall be held to be made and taken for the second Monday of February A. D., 1857.

To publish.

SEC. 2. This act shall be published in all newspapers published in Columbia county, immediately after its passage.

SEC. 3. This act shall take effect from and after its passage.

Approved January 23, 1856.

CHAPTER 2.

Published January 26.

An Act to defray the Postage Expenses of the Senate and Assembly.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Appropriation to pay postage.

SECTION 1. There is hereby appropriated, to be paid to the post master of Madison, of any moneys in the treasury, not otherwise appropriated, the sum of fifteen hundred dollars, to defray the postage expenses of the senate and assembly at the present session, the accounts for such postage to be verified by the affidavit of said postmaster, and audited by the secretary of state.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved January 23, 1856.

CHAPTER 3.

Published February 12.

An Act to amend section seventy-five of chapter ten, of the Revised Statutes of this State.

The people of the State of Wisconsin, represented in senate and Assembly, do enact as follows:

Amended so as to appoint court commissioners.

SECTION 1. The circuit judges in each of the judicial circuits of this state, may appoint in each of the organized counties in their respective circuits, two court commisioners, and each court commissioner so appointed, shall hold

his office for two years from the time of his appointment, unless removed by such judge, and shall have the same powers, and discharge the same duties in all respects, as are now conferred and imposed on court commissioners, by the laws of this state.

SEC. 2. So much of section seventy-five, of chapter ten, of the revised statutes of this state, as conflicts with the provisions of this act, is hereby repealed. **Repealed.**

SEC. 3. This act shall take effect from and after its passage and publication.

Approved February 8, 1856.

CHAPTER 4.

Published February 13.

An Act to amend chapter forty-seven of the Revised Statutes, entitled "Of Religious Societies."

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

SECTION 1. Section eighteen, of chapter forty-seven of the revised statutes of this state, entitled "Of Religious Societies," is hereby so amended as to read as follows, viz: It shall be lawful for the circuit court for the county in which any such religious corporation shall have been constituted, on the application of such corporation, if such court shall deem it proper to make an order for the sale or mortgage of any real estate belonging to such corporation, and to direct the application of the moneys arising therefrom to such uses, as the said corporation, with the approbation of said court, shall conceive to be for the interest of such corporation. **Amendment.** **To sell or mortgage real estate.**

SEC. 2. The provisions of section eighteen, as amended by this act, and of section nineteen, of chapter forty-seven of the revised statutes of this state, shall be applicable to all religious societies and corporations in this state, whether constituted under the provisions of said chapter or otherwise. **Made applicable.**

SEC. 3. This act shall take effect and be in force from and after its passage and publication.

Approved Feb. 12, 1856.

CHAPTER 5.

Published February 19.

An Act to authorize the Secretary of State to audit the accounts of County, Town, City and Village clerks and assistants, for taking the census of 1855.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Secretary of state to audit accounts for taking census.

SECTION 1. The secretary of state is hereby authorized and required to audit the accounts of the several clerks of the boards of supervisors for each county, and the clerks of the several towns, cities and villages of this state, and assistants duly appointed by the clerks of boards of supervisors, for taking the census and making the returns, according to the law of this state, approved March 31, 1855.

Payment of same.

SEC. 2. The accounts of these several county, town, city and village clerks, and assistants, when audited and certified as correct by the secretary of state, shall be paid by the state treasurer, out of any money not otherwise appropriated, and shall be his vouchers in settling his accounts with the state, and a sufficient sum to pay the accounts so audited and certified, is hereby appropriated for that purpose out of any money in the treasury, not otherwise appropriated.

Amounts to be allowed in auditing.

SEC. 3. It shall be the duty of the secretary of state, in auditing and certifying the accounts of the clerks of cities, towns and villages, and of assistants duly appointed according to law, for taking and returning the census of 1855, to allow to all such clerks or assistants who shall have made due return to the clerks of the boards of supervisors of their respective counties of the enumeration required to be made by them respectively, by the terms of the act in relation to census, approved March 31, 1865, as follows: To clerks of incorporated cities and villages, one dollar for every one hundred persons, and the like sum for a fraction of one hundred enumerated and returned by them respectively; to town clerks and assistants appointed by the clerks of the board of supervisors, one dollar and fifty cents for every one hundred persons, and the like sum for a fractional hundred, enumerated and returned by them respectively; *Provided*, That he may allow to persons taking said census in counties not

Proviso.

organized for judicial purposes, and in districts not included in any town organization an additional compensation of one dollar and fifty cents for every one hundred persons so enumerated and returned by them, and the said secretary of state shall also audit and allow to the clerks of the boards of supervisors, for making and preparing duplicate copies of the enumeration of their respective counties, and for transmitting one of said copies to the secretary of state, and delivering the other to the register of deeds of the county, the sum of five dollars for each of said duplicate copies, if said enumeration for the county shall comprise the names of one thousand persons, or less, and one dollar for each of said duplicate copies for every thousand names said enumeration shall contain, exceeding one thousand, and the like sum for the fraction of a thousand.

SEC. 4. This act shall take effect from and after its passage.

Approved February 14, 1856.

CHAPTER 6.

Published March 5.

An Act to provide for the purchase of Stationery for the use of next Legislature.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The superintendent of public property is hereby authorized to purchase all stationery necessary for the use of the next legislature. **Stationery for next legislature.**

SEC. 2. There is hereby appropriated out of any money in the treasury, not otherwise appropriated, the sum of three thousand dollars, as a contingent fund for the purchase of such stationery. **Appropriation**

SEC. 3. The said superintendent of public property is hereby required to make out an account of the disposition of such fund to the proper committee of the next legislature, and he is also required to give a bond in the sum of **Superintendent to give bond.**

of thirty-five hundred dollars, to the state treasurer, with surety, which bond shall be approved by the governor, for the faithful expenditure of said sum of three thousand dollars, or so much thereof as may be necessary for the purpose mentioned in the first and second sections of this act: *Provided*, That before drawing any of said sum of three thousand dollars, the said superintendent of public property, shall make and execute such bond to the state treasurer, with two or more sufficient sureties, to be approved by the governor: *And provided also*, That the purchase of stationery made by the said superintendent of public property, shall be by contract, and said contract shall be let to the lowest bidder.

Proviso.

Proviso.

Approved February 19, 1856.

CHAPTER 7.

Published March 4.

An Act to appropriate a certain sum of money to the Superintendent of Public Property, to purchase Stationery for the State Officers, viz: the sum of three thousand dollars.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Stationery for state offices.

SECTION 1. The superintendent of public property is hereby authorized to purchase all stationery necessary for all the several offices and departments of the state, for the year one thousand eight hundred and fifty-six.

Appropriation

SEC. 2. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of three thousand dollars, as a contingent fund for the purchase of such stationery.

Superintendent to give bonds.

SEC. 3. The said superintendent of public property is hereby required to make out an account of the disposition of such fund to the proper committee of the next legislature, and he is also required to give a bond in the sum of four thousand dollars, to the state treasurer, with surety, which bond shall be approved by the governor, for the faithful expenditure of the said sum of three thousand dollars, or so much thereof as may be necessary for the

purpose mentioned in the first and second sections of this act; *Provided*, That before drawing any of said sum of three thousand dollars, the said superintendent of public property shall make and execute such bond to the state treasurer with two or more sureties, to be approved by the governor; *And Provided, also*, That the purchase of stationery by the said superintendent of public property, shall be by contract, and said contract shall be let to the lowest and best bidder. Proviso. Proviso.

SEC. 4. The said superintendent of public property shall from time to time, furnish to the several offices or departments, under the direction of the governor, such quantities of stationery as may be necessary to the business of of the same, and shall keep an account of the articles so furnished, for public inspection. The purchase of any stationery, by any state officer, assistant, deputy, clerk, or other person employed in any department, of any person or persons, at the expense of or to be charged to the state, is hereby prohibited, and no bill for any such purchase hereafter made, shall be considered or allowed. To keep an account of stationery furnished, &c.

Approved February 19, 1856.

CHAPTER 8.

Published March 5.

An Act to appropriate the sum of one thousand dollars to defray the postage of the members of the present legislature, and to authorize the secretary of state to audit the account of the post master in Madison, for postage.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is hereby appropriated to John N. Jones, post master at Madison, one thousand dollars, ($1000.00) for postage of members of the present legislature, from Feb. 11, 1856. Appropriation for postage.

SEC. 2. It shall be the duty of the secretary of state to audit the account of the said John N. Jones, for postage, and when so audited and allowed they shall be paid by Audit account.

the state treasurer, on the order of the secretary of state out of any money not otherwise appropriated.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved February 19, 1856.

CHAPTER 9.

Published February 23.

An Act in relation to the circuit court of Rock county.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Special term of court.

SECTION 1. A special term of the circuit court for Rock county, shall be held on the twenty-sixth day of February, 1856, and no notice of the holding thereof shall be required. There shall be held a special term of said court in said county, on the third Tuesday of January in every year hereafter.

To adjourn same.

SEC. 2. The judge of said court may adjourn any general or special term thereof, for any time, by an order made in open court, and entered in the minutes kept by the clerk thereof, and no notice of such adjournment shall be required.

In certain cases court to stand adjourned without day.

SEC. 3. In case the judge of the court shall not arrive and open the court on the first day of any term thereof, or on the day to which any term shall be adjourned, before four o'clock, the clerk of the court shall adjourn the said court, from day to day, not exceeding six days, Sunday's excepted, and shall enter an order making such adjournment in the minutes, kept by him, and if the judge should not arrive and open the court before four o'clock of the said sixth day, the court shall stand adjourned without day.

SEC. 4. This act shall be published immediately, and be in force from and after its passage.

Approved February 22, 1856.

CHAPTER 10.

Published March 7.

An Act to distribute the History of Wisconsin to the several School Districts of this State.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

History of Wisconsin—its distribution

SECTION 1. The superintendent of public property is hereby authorized to deliver to the superintendent of public instruction, twenty-five hundred copies of the History of Wisconsin.

State superintendent to forward same to registers.

SEC. 2. It shall be the duty of the state superintendent of schools, as soon as he shall receive the books as above provided, to forward a sufficient number of copies to the register of deeds of each county in the state, whose duty it shall be to receive the same, to supply the several common schools therein, and at the same time inform the town superintendent of each town of the number of copies which he is entitled to receive from the register of deeds of his county, to be distributed to the several common schools in his town.

Town superintendent's duties.

SEC. 3. On the receipt of the aforesaid books, the town superintendent shall deliver to the librarian of each organized school district in his town, one copy for each common school taught therein, and shall take his receipt for the same, and file it among the records of his office, and such books, when received by the several districts in the state, shall be considered as belonging to the library of the district, and shall be subject to the same laws and regulations as other library books.

To compensate for services.

SEC. 4. The register of deeds and town superintendent shall receive such compensation for the services required by them by the provisions of this act, as the county and town boards of supervisors, respectively shall deem proper.

Provisions of act made to apply, &c.

SEC. 5. The provisions of this act shall be so construed as to apply to the superintendents of common schools of the several cities of this state, the same as to town superintendents, and where school districts have no librarian elected, then the books must be delivered by the town superintendent to the district clerks of such districts.

SEC. 6. This act shall take effect from and after its passage and publication.

Approved February 29, 1856.

CHAPTER 11.

Published March 8.

An Act to change the name of John S. Folds to John S. F. Langrishe.

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

To change name.

SECTION 1. That John S. Folds, commonly known as John S. Langrishe, shall hereafter be known in law, and called by the name of John S. F. Langrishe.

Approved March 6, 1856.

CHAPTER 12.

Published March 8.

An Act concerning the Circuit Court of the counties therein named.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Time of holding court in certain counties.

SECTION 1. The terms of the circuit court in the counties of Polk, St. Croix, Pierce and Chippewa shall be held as follows, to wit: In the county of Polk, on the fourth Monday of April, and on the fourth Monday in October, in each year. In the county of St. Croix, on the second Monday of May, and on the second Monday of November, of each year. In the county of Pierce, on the fourth Monday of May, and on the fourth Monday of November, in each year.—In the county of Chippewa, on the fourth Monday of June, and on the fourth Monday of December, in each year.

SEC. 2. All writs, process, indictments, appeals, recognizances and other proceedings whatsoever, made returnable to the terms of the circuit court, in and for the several counties mentioned in this act, as now provided by law, and all adjournments, appearances, continuances, motions and notice of any proceedings in the circuit courts of the several counties herein mentioned, made or taken to the terms of the circuit court in and for said counties, as now provided by law, shall be held to be taken to the terms of the circuit court in and for said counties, as fixed and established in the first section of this act. Writs, &c. returnable.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 6, 1856.

CHAPTER 13.

Published March 10.

An Act to fix the time for holding the terms of the Circuit Court in the counties of Brown and Outagamie, in the Tenth Judicial Circuit.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The terms of the circuit court, for the county of Brown, shall be held on the first Monday in January, May and October, in each year. Time of holding court in Brown and Outagamie counties.

SEC. 2. The terms of said court, for the county of Outagamie, shall be held on the third Monday of January and October, and fourth Monday of April, in each year.

SEC. 3. The grand jury shall be summoned to attend the January term of said court, in the county of Brown, and neither grand nor petit jury shall be summoned to attend the January term in the county of Outagamie. Grand jury.

SEC. 4. All recognizances on criminal charges entered into before a justice of the peace, shall be made returnable to the term next succeeding the entry thereof, at which a grand jury is required to attend. Criminal charges.

SEC. 5. All writs, recognizance and proceedings, now pending in any of said courts, shall be deemed returnable, or continued to the terms hereinbefore mentioned. Writs, &c. returnable.

Repealing clause.

SEC. 6. So much of any act as requires the holding of a term of said court in either of said counties at any other time than as hereinbefore specified, and all acts conflicting with the provisions of this act are hereby repealed.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved March 6, 1856.

CHAPTER 14.

Published March 11.

An Act to change the name of Artemas Ewell George, and to constitute said child an adopted son of R. J. and Louisa S. Munn.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

To change a name.

SECTION 1. That the name of Artemus Ewell George shall hereafter be Ewell George Munn, by which name the said person shall be called and known, to all legal intents and purposes.

Heir-at-law.

SEC. 2. The said person whose name is thus changed by the first section of this act, shall be the child and heir-at-law of Romanzo J. Munn and Louisa S. Munn, his wife, of the city and county of Racine, in the state of Wisconsin, and the obligation of child to parent and parent to child, shall pertain as fully between the parties herein named, as in the case of legitimate parentage and descent.

When to take effect.

SEC. 3. This act shall take effect from and after its passage: *Provided*, That this act shall have no force until the said Romanzo J. Munn and Louisa S. Munn, his wife, shall assent thereto, by an instrument in writing, to be by them subscribed and acknowledged, and recorded in the office of the register of deeds, of said county of Racine.

Approved, March 1, 1856.

CHAPTER 15.

Published March 11.

An Act to authorize the extension of time for the collection of taxes in certain cases.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1 The board of supervisors of any town, and the common council of any city, shall have power, and they are hereby authorized to extend the time for the collection of taxes in such town or city, for such period of time not exceeding thirty days, as the said board of supervisors or the said common council may deem necessary. **To extend time for collecting taxes.**

SEC. 2. The extension of time for the collection of taxes in any town or city, shall not in any manner, postpone the time for the payment to the county treasurer, of the state tax included in any town or city tax roll. **Not to postpone payment.**

SEC. 3. The collector of taxes shall have the same power and authority to proceed in the collection of taxes contained in such town or city tax roll after, as before, such extension of time for the collection of said taxes and the return of any such collector of taxes to the county treasurer within the time limited and specified by said board of town supervisors, or to the common council in their order, extending the time for the collection of taxes, shall be as valid and effectual as if made pursuant to the direction of the original warrant. **Collector—powers.**

SEC. 4. Such order extending the time for the collection of taxes, may be in the following or equivalent form, to be endorsed upon the warrant annexed to the tax roll of such town or city: **Form.**

We hereby renew this warrant for ——— days.

Dated, this — day of ———

———————————

Supervisors of the town of ——
or Mayor and Clerk of common council
of the city of ———

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved March 1, 1856.

CHAPTER 16.

Published March 12.

An Act to change the names of Eliza Lucy Allison and James Henry Allison to Eliza Lucy Van Orden and James Henry Van Orden.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

To change names.

SECTION 1. The name of Mrs. Eliza Lucy Allison, of the town of Linn, in the county of Walworth, is hereby changed to Eliza Lucy Van Orden, and the name of James Henry Allison, her infant son, is hereby changed to James Henry Van Orden, and by such names of Eliza Lucy Van Orden and James Henry Van Orden, the said two persons shall hereafter be legally known in all places and at all times, and for all purposes.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 7, 1856.

CHAPTER 17.

Published March 12.

An Act to change the name of James Thomas Jones to James Thomas Parkinson, and to constitute the said James Thomas heir-at-law of Daniel M. Parkinson and Mary F. Parkinson, his wife.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

To change name.

SECTION 1. That the name of James Thomas Jones, son of Hannah Jones, deceased, late of La Fayette county, in this state, shall be and is hereby changed to James Thomas Parkinson, and by this latter name he shall hereafter be called and known in popular nomenclature and in law.

Heir-at-law.

SEC. 2. The said James Thomas Parkinson shall be esteemed and taken in law to be the child and heir-at-law

of Daniel M. Parkinson and Mary F. Parkinson, his wife, of said La Fayette county, and the mutual obligations of parent and child shall exist and pertain as fully between the foster parents and foster child mentioned herein, as in the case of natural parentage; *Provided*, That before this act shall become binding and effective, the said Daniel M. Parkinson and Mary F. Parkinson, his wife, shall assent in writing, under their hands and seals, to the provisions of this act, which writing shall be witnessed by two witnesses, and be filed with and recorded by the register of deeds of said county of La Fayette. Proviso.

SEC. 3. This act shall take effect from and after its passage, publication and a full compliance with the provisions contained in the second section of this act. When to take effect.

Approved March 7, 1856.

CHAPTER 18.

Published March 17.

An Act to authorize the Secretary of State to audit accounts for printing documents in foreign languages, and appropriating for payment of such accounts when audited.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The secretary of state is hereby authorized to audit all accounts for printing in any foreign language ordered by either branch of the legislature, at the present session, at the rate of ten cents for every thirty two pages of the English copy of the reports or documents as furnished by the state printer. Secretary of state to audit certain accounts.

SEC. 2. The state treasurer is hereby directed to pay on the warrant of the secretary of state, the accounts audited as provided in section one of this act, and a sum sufficient to pay said accounts as they are audited, is hereby appropriated out of any money in the state treasury not otherwise appropriated. Payment of same.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 14, 1856.

CHAPTER 19.

Published March 17.

An Act to appropriate to the Wisconsin Institute for the education of the Blind, the sum of fifteen thousand dollars.

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

Appropriation for institution for blind.

SECTION 1. There is hereby appropriated to the Wisconsin Institute for the education of the blind, the sum of five thousand dollars for the support of said institute, from the first day of January, one thousand eight hundred and fifty-seven, to the first day of January, one thousand eight hundred and fifty-eight, to be levied and collected in the tax of eighteen hundred and fifty six, and paid to said institution in the year eighteen hundred and fifty-seven.

To complete building.

SEC. 2. There is hereby appropriated to said institution the further sum of ten thousand dollars for the completion of the main building of said institution according to the plan of the same.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 14, 1856.

CHAPTER 20.

Published March 17.

An Act to authorize the Secretary of State to audit the account of the Post Master at Madison.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Secretary of state to audit account of postmaster.

SECTION 1. It shall be the duty of the secretary of state to audit the account of the post master at Madison, for postage of members of the senate and assembly from March 7, 1856, to the close of the present session of the

legislature, and when so audited and allowed, the same shall be paid by the state treasurer on the order of the secretary of state out of any moneys not otherwise appropriated.

SEC. 2. This act shall be in force from and after its passage.

Approved March 14, 1856.

CHAPTER 21.

Published March 22.

An Act to remit certain forfeitures, and extend time for payment of School or University Land interest.

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

SECTION 1. All forfeitures that have accrued to this state, in consequence of the non-payment of any interest due the state on any loan from the school or university funds, or on account of any interest due on account of school and university lands, in any manner, on the fifth day of March, A. D. 1856, are hereby remitted to the persons respectively from whom interest was due, and if any such person shall have paid any such forfeiture between the fifth of March aforesaid, and the passage of this act, the state treasurer is hereby authorized and directed to place the amount thus paid as forfeiture, to the credit of the person who may have so paid the same, and apply the same to the payment of the interest which shall be due from said persons next year, and the time for payment of interest due the state as aforesaid, for the present year, is hereby extended to the first day of May, A. D. 1856. **Forfeitures remitted.**

SEC. 2. This act shall be in force and go into effect from and after its passage.

Approved March 18, 1856.

CHAPTER 22.

Published March 22.

An Act to provide for more fully carrying into effect the General Banking Law of this State.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Bank comptroller to appoint assistant register.

SECTION 1. The bank comptroller is hereby authorized to appoint one assistant register, who shall be accountable to and perform such duties as may be assigned him by the bank comptroller, and shall receive an annual salary of six hundred dollars, to be paid by the state treasurer quarterly, commencing on the first day of January last.

Clerk.

SEC. 2. The state treasurer is hereby authorized to appoint one clerk, who shall perform such duties in the bank department as may be assigned by the state treasurer.—He shall receive an annual salary of six hundred dollars, to be paid out of the state treasury quarterly, commencing on the first day of January last.

Agent.

SEC. 3. The agent of the bank department in the city of New York, shall receive an annual salary of five hundred dollars, to commence on the first day of January, 1856, and to be paid by the state treasurer, on the certificate of the bank comptroller. The salary of the bank register is hereby increased to the sum of twelve hundred dollars.

Appropriation.

SEC. 4. A sum sufficient to provide for the payment of the foregoing appropriations is hereby annually appopriated, to be paid out of any money in the state treasury not otherwise appropriated.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved March 18, 1856.

CHAPTER 23.

Published March 25.

An Act to authorize certain towns to aid in the construction of the Milwaukee and Beloit Railroad.

The People of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

SECTION 1. The respective boards of supervisors of the towns of Muskego, Vernon, Mukwanago, in the county of Waukesha, and of east Troy, Troy, Lafayette, Sugar Creek, Elkhorn and Delavan, in the county of Walworth, are hereby authorized and empowered on the condition and for the purpose of aiding in the construction of the Milwaukee and Beloit railroad, to issue the bonds of their respective towns for any sum of money not exceeding in the aggregate, the amount in each town, as hereinafter specified, to wit: Muskego, fifty thousand dollars; Vernon, fifty thousand dollars; Mukwanago, one hundred thousand dollars; East Troy, one hundred thousand dollars; Troy, fifty thousand dollars; Lafayette, thirty thousand dollars; Sugar Creek, forty thousand dollars; Elkhorn, twenty-five thousand dollars; Delavan, seventy-five thousand dollars. **Certain towns to issue bonds to railroad.**

SEC. 2. Such bonds shall be signed by the chairman of the town board of supervisors, and countersigned by the town clerk, and shall be of such denomination and payable at such place as the board of supervisors, issuing them may deem advisable, and shall be payable at a time specified therein, not exceeding twenty years from the date, with interest, not exceeding 8 per cent. per annum, payable annually or semi-annually. **When payable, &c.**

SEC. 3. Such bonds may be delivered to the Milwaukee and Beloit railroad company, at their par value, in payment for shares of stock to be subscribed by the supervisors of the town, in the capital stock of said railroad company, for the benefit of such town; but no such bonds shall be issued until a majority of the legal voters of the town voting upon the question shall have voted in favor of such issue. A special election for that purpose may be called by the supervisors of the town, at the usual place of holding the annual town meeting, at such time as they **To vote on issue of bonds.**

may deem proper; but in either case notice of the election shall be posted up in five public places in the town, and be published in a newspaper printed in the county, for twenty days preceding such election; such notice shall specify the amount of the bonds proposed to be issued to said railroad company, the length of time they are to run, the rate of interest they shall bear, and the place where the same shall be payable; at such election, those voting in favor of the proposition shall deposit a ballot containing the words thereon, "For the railroad," and those voting against it shall deposit a ballot containing thereon the words, "Against the railroad." The election shall be conducted, and the votes shall be canvassed, certified to, and recorded in the same manner as the votes given at the annual town meeting; *Provided, however*, That no such election shall be ordered or called by the supervisors of the town, unless the same shall be requested in a petition signed by not less than twenty-five freeholders of such town; but when such petition so signed shall be presented to the supervisors of the town, they shall order or call such election as herein provided.

Proviso.

Company to give security.

SEC. 4. Before the supervisors shall issue and deliver any such bonds, said railroad company shall give security to the satisfaction of the supervisors, that the money arising from the sale of bonds shall be faithfully applied to the construction of the Milwaukee and Beloit railroad; and the said railroad shall be completed to such point within such time as they may deem it safe and expedient to require.

Stock, &c. pledged for payment of principal and interest.

SEC. 5. The shares of stock in said railroad company thus taken by any town, and all dividends arising therefrom, are hereby and shall remain irrevocably pledged for the payment of the principal and interest of the bonds delivered therefor, as also for the faith of such town; but the supervisors of the town may sell the shares of stock taken in said railroad by such town if authorized so to do, by a majority of the legal voters voting at an annual town meeting in such town, and thereafter the proceeds of such sale, and the interest thereon, shall be and remain irrevocably pledged to pay the principal and interest of such bonds, and the supervisors shall annually, or whenever it may become necessary, levy a tax upon the taxable property of the town, sufficient to pay the interest upon such bonds, and the principal when it shall become due; and such tax shall be assessed, levied and collected in the

same manner as other taxes in such towns are assessed, levied and collected by law.

SEC. 6. The shares of stock so subscribed for, and held by any such town, shall not be in any manner affected by any mortgage, lien, or incumbrance given or obtained upon such railroad; and in case any such railroad be sold or in any manner disposed of, to satisfy any such mortgage or lien, such shares of stock held by such town, shall still remain valid and unaffected, and the town shall be entitled to draw the same dividends upon such shares in whosoever hands or control such railroad may be, as if no such sale or disposition had been made. Stock not affected by mortgage.

SEC. 7. The board of supervisors of each town holding any shares of stock in said railroad, shall annually, or as often as a vacancy occurs, appoint one railroad commissioner, who shall attend the annual or special meetings of the stockholders of said railroad company, and shall be entitled to cast one vote for every share of stock so held by the town, in the election of officers in said railroad company, and in all questions in which the stockholders may have a vote. Railroad commissioner.

SEC. 8. This act shall be published in one newspaper published in each of the counties of Waukesha and Walworth, and with the laws of a general nature, and shall be in force from and after its passage. To publish.

Approved March 18, 1856.

CHAPTER 24.

Published March 26.

An Act to authorize the State Superintendent of Public Instruction to subscribe for a certain number of copies of the Wisconsin Journal of Education.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The state superintendent of public instruction, from year to year, so long as he shall deem expedient, is hereby authorized to subscribe for so many copies of the Wisconsin Journal of Education, published by the State superintendent to subscribe for journal of education, &c.

State Teachers' Association, at the price of fifty cents per year, as shall be sufficient to supply one copy to each organized school district in the state, and one copy to each town superintendent of schools in the state; *Provided*, The state superintendent be allowed to publish, free of expense to the state, any and all matters of an educational character, that he may wish to publish from month to month in the columns of said journal. The said periodical shall be sent by the publishers to the clerk of each school district in the state, and to each town superintendent in the state. It shall be the duty of each district clerk to cause each volume to be bound, at the expense of the district, and to be kept in the library of such district, subject to the general library regulations.

Payment for same.

SEC. 2. A sum sufficient to pay for the number of copies of said journal so subscribed for, is hereby annually appropriated out of the income of the school fund, and the same shall remain in the state treasury, subject to the draft of the state superintendent of public instruction, to be drawn quarterly, and paid over to the publisher of said journal.

To deduct same from school fund.

SEC. 3. In making the annual apportionment of the income of the school fund among the several towns and cities of this state, it shall be the duty of the state superintendent to deduct from the whole amount otherwise subject to apportionment, such sum as may be necessary to pay for the said journal at the price above named.

To certify amount deducted to state treasurer.

SEC. 4. In certifying to the state treasurer the apportionment of the income of the school fund annually, the state superintendent shall state in such certificate the aggregate amount deducted according to the provisions of this act.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved March 19, 1856.

CHAPTER 25.

Published March 26.

An Act to change the name of William Ramminger to William Reichel.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The name of William Ramminger, a resident of the city of Sheboygan, in the county of Sheboygan, commonly known by the name of William Reichel, is hereby changed to William Reichel, by which name he shall be hereafter known in law, for all purposes whatsoever. Name changed

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 20, 1856.

CHAPTER 26.

Published in Extra, April 16.

An Act to regulate the crossing of railroad tracks by railroad trains.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. That all railroad trains drawn or propelled by one or more locomotives, shall stop and come to a dead halt before arriving at, or crossing the track of another railroad, and the one arriving near said crossing first (if two trains are present at the same time) shall cross and move on first. Crossing railroad track.

SEC. 2. If any railroad company, or their agents, servants or employees, shall violate the provisions of this act, such company shall for each and every violation thereof forfeit and pay the sum of five hundred dollars, such penalty to be collected as other fines and penalties are collected, and to be paid over, one half to the person in whose name the Punishment for violation of act.

action is brought and the balance shall be paid into the county treasury for the benefit of the school fund, as provided in the constitution.

In case of loss of life or property.

SEC. 3. In case of the destruction of life or property by a violation of this act, the offending party or parties shall be liable to the injured party in double the amount of property destroyed, and for every life destroyed the offending party shall be liable in a sum not exceeding fifty-thousand dollars, nor less than ten thousand dollars, to be recovered by the representatives of such deceased person, to be collected by an action of debt or assumpsit as in other cases provided.

Money recovered under this act—how disposed of.

SEC. 4. All sums of money recovered under the provisions of this act, for the destruction of the life of any person, shall be for the exclusive use and benefit of the widow and child or children of the person whose life shall have been so destroyed; if there be a widow and child or children surviving the deceased, one half for the widow and one half for the child or children; in case there be no widow and there be a child or children, then for the exclusive benefit of the child or children, and if there be no child or children surviving and there be a widow, then for the exclusive benefit of the widow, and in all other cases the money recovered shall be distributed as other personal assets in the hands of the personal representatives of the deceased.

Public act.

SEC. 5. This act shall be a public act and shall take effect upon its passage and publication.

Approved March 20, 1856.

CHAPTER 27.

Published March 29.

An Act to annex a part of the county of Dodge to the county of Jefferson.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

District pro- to be

SECTION 1. All of that district of country lying and being within the county of Dodge, and known and described

as township number nine (9) north, of range number thirteen (13), fourteen (14), fifteen (15), sixteen (16), and seventeen (17) east, and comprising the towns of Portland, Shields, Emmet, Lebanon and Ashippun, and the fifth and sixth wards of the city of Watertown, is hereby detached and set off from said county of Dodge, and attached and annexed to the county of Jefferson.

annexed to Jefferson co.

SEC. 2. On and after the first Tuesday in July, in the year one thousand eight hundred and fifty-six, the said towns of Portland, Shields, Emmet, Lebanon and Ashippun, and the said fifth and sixth wards of the city of Watertown, shall be attached and annexed to and form a part of said county of Jefferson to all intents and for all purposes whatever.

When to be attached.

SEC. 3. All suits, writs, process, appeals, recognizances or other legal proceedings commenced in any court in said county of Dodge, prior to the first Tuesday in July, in the year one thousand eight hundred and fifty-six, shall be prosecuted to final judgment and execution thereon, and all proceedings and doings therein or thereupon, shall be in the same manner they might or could have been, had this act not passed, and all suits, writs, process, appeals, recognizances or other legal proceedings pending undetermined, or not returned within said county of Dodge, at the time of the passage of this act, shall be prosecuted to final judgment and execution thereon and returns made, and all other things in relation thereto, shall be done in the same way and manner the same might or could have been done, had this act not passed, anything in this act contained to the contrary notwithstanding.

Suits, writs, &c. commenced in Dodge county.

SEC. 4. The board of supervisors of said county of Jefferson, on or before, or as soon as may be after the first Tuesday in July, in the year one thousand eight hundred and fifty-six, shall procure a copy of so much of the records of said county of Dodge, as may or shall relate to or in anywise affect the title of any lands, or any estate, or interest in any lands within the said towns of Portland, Shields, Emmet, Lebanon and Ashippun, and said fifth and sixth wards of said city of Watertown, and the register of deeds, the clerk of the circuit court, county treasurer, and the clerk of the board of supervisors of said county of Dodge, are hereby severally required to permit such person or persons as the said board of supervisors of said county of Jefferson may and shall employ and authorize to copy said records as aforesaid, to have free

Board of supervisors of Jefferson co. to appoint person to take copy of certain records, c.

access to all the records in their respective offices at all reasonable times, for the purpose of making a copy of said records. And the copy of said records so made being certified under the hand of the person or persons making the same, to be a true copy of all the records relating to or in anywise affecting the title of any lands or any estate or interest in any lands within said towns of Portland, Shields, Emmet, Lebanon and Ashippun, and said fifth and sixth wards of said city of Watertown, to be found in the office of the register of deeds or clerk of the circuit court, county treasurer, clerk of the board of supervisors, (as the case may be) of said county of Dodge, and the said certificate verified by the affidavit of the person or persons making the same, and the said certificate and affidavit being annexed to or endorsed on said copy of said records, and together with said copy deposited in the office of the register of deeds, clerk of the circuit court, county treasurer, or clerk of the board of supervisors (as the case may be) of said county of Jefferson, shall be to all intents and purposes a part of the records of said county of Jefferson, and all matters and things therein contained, shall be received in all courts and places, and shall have the same force and effect as if originally entered of record in said county of Jefferson.

Commissioners to make survey of co. of Dodge.

SEC. 5. On application of the board of supervisors of Dodge county, the supreme court shall appoint three commissioners, who shall severally be practical surveyers, whose duty it shall be to proceed and make an actual and accurate survey and admeasurement of the area of said county of Dodge, and shall complete such survey and admeasurement, and shall file their determination and finding in writing to the office of the secretary of state, on or before the first day of July, in which they shall state specifically the number of acres and fractions of an acre contained in such area, and in case they find and determine that said county has not an area in the aggregate greater than nine hundred square miles, then this act shall not take effect, until a majority of the voters voting on the question of division, as hereinafter provided shall have voted for division.

Vote on division.

SEC. 6. If it shall appear by the finding and determination of such commissioners, that the area of said county of Dodge does not in the aggregate exceed nine hundred square miles, then the secretary of state shall forthwith after the filing such report and determination, order and

give notice of an election to be held in the several wards and towns in said county of Dodge, at which election any qualified voter of said county may vote "for division," or "against division," on a written or printed ballot, or on a ballot partly written and partly printed. Such election shall be not more than seventy days, nor less than forty days from such first days of July, and notice thereof shall be published not less than thirty days in the state paper, and in all papers published in Dodge county, and in the city of Watertown, which order and notice shall state distinctly the question to be presented to such voters, and shall be severally signed by the secretary of state: *Provided*, The refusal or omission to publish for any part of the time aforesaid in any of said newspapers, shall not invalidate such election, if a copy of such notice shall have been duly served (by mailing) on such papers for publication. Such election shall be held and conducted in the several wards and towns in the same manner, and during the same hours of the day, and the votes of the towns and wards severally, and of the whole county canvassed, in the same manner as at general elections.

If a majority vote in its favor.

SEC. 7. If a majority of all the votes cast at such election, shall be for division, then this act shall be in full force and effect from and after the fifteenth day of September next.

SEC. 8. Such commissioners shall, before proceeding to make such measurement, severally take and subscribe an oath, substantially in the following form:

STATE OF WISCONSIN, }
County of Dodge, } ss.

Form of oath.

———, Being duly sworn, do severally say, each for himself, that he will faithfully and honestly measure, ascertain and determine, the number of square miles, and numbers of acres and fractions of miles and acres, within said county, and make true returns of such measurement and determination as by law required.

Subscribed, &c.

To file oath and finding.

Which oath shall be filed with their finding and determination in the office of secretary of state, and may be sworn to before any officer of this state authorized to administer oaths: any two of said commissioners may make such measurement, finding and determination, and shall return the same under their hands.

Chainmen. Such commissioners may employ not more than two chainmen at any one time, and in such case, all chainmen so employed, shall take and subscribe an oath in all respects like the one above mentioned, (except so far as relates to making returns of proceedings) before proceeding to act.

Public act. SEC. 9. This act is hereby declared a public act, and shall be favorably construed to effect the purpose hereby intended, and copies thereof printed by authority of the state, shall be received as evidence thereof in all cases, and this act shall take effect and be in force from and after its passage.

Approved March 20, 1856.

CHAPTER 28.

Published April 28.

An Act to amend an act entitled "an act to fix the times for holding the terms of the circuit court in the counties of Brown and Outagamie, in the tenth judicial circuit," Approved March 6, 1856.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendment. SECTION 1. Section three of chapter thirteen, of the general laws of Wisconsin for the year 1856, is hereby amended by striking out the word "grand" in the first line of said section, and inserting the word "petit."

SEC. 2. This act shall take effect and be force from and after its passage.

Approved March 21, 1856.

CHAPTER 29.

Published April 28.

An Act to change the name of Harriet Cowles and her infant daughter Mary Emma Virginia Cowles.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The name of Harriet Cowles of the town of Baraboo, in the county of Sauk, is hereby changed to Harriet Chapman, and the name of her infant daughter, Mary Emma Virginia Cowles, is hereby changed to Mary Emma Virginia Chapman, and by the last mentioned names they shall respectively be hereafter known and recognized. Name changed

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 22, 1856.

CHAPTER 30.

Published March 25.

An Act concerning evidence.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Copies of any record, plat, file, paper or memorandum, of the purchase or entry of any land made or kept in any land office of the United States located in this state, when certified by the register of the land office, having the charge or custody thereof, in like form as is by statute required as to other records, plats, files or papers, shall be, in or before any court or tribunal, evidence of the matters or things so certified. Copies of record, &c., certified by register deemed evidence.

SEC. 2. This act shall be printed by the state printer immediately after the passage thereof, and when so printed shall take effect.

Approved March 25, 1856.

CHAPTER 31.

Published April 29.

An Act to protect the Capitol Square, and the public property therein.

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

Injurious to capitol square.

SECTION 1. Any person who shall girdle, or in any way willfully injure the trees growing upon the Capitol Square, in the city of Madson, or who shall willfully break, destroy, or in any way injure the fences enclosing said square, or the chains or posts enclosing the grass plots in said square, shall be liable to a penalty of not less than five dollars, to be recovered before any court of competent jurisdiction; and the superintendent of public property is hereby authorized to proceed on behalf of the state, for any violation of the provisions of this act.

SEC. 2. This act shall take effect and be in force from and after its publicalicn.

Approved March 27, 1856.

CHAPTER 32.

Published in Extra April 16.

An Act to provide for the erection and maintainance of guide boards along leading and important public highways.

The people of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

Supervisors to have guide boards put up.

SECTION 1. It shall be the duty of the chairman of the town board of supervisors of each town in this state, within six months from and after the passage of this act, to cause to be erected at the intersection of all main traveled roads within his town with other legally laid out roads, suitable and intelligible post guides or guide boards giving direction and distance from the point of such inter-

section to adjoining or important towns, the expense to be paid from the treasury of the town.

SEC. 2. Any chairman of a town board of supervisors who shall neglect the duty required by section one of this act, shall forfeit and pay for each month's neglect of such duty, and for each instance of such neglect, for the time aforesaid, a fine of five dollars, to be recovered before any justice of the peace of the county, on complaint of any person of lawful age who shall prefer such complaint, one half of said fine to go to the complainant, and the remaining half to the school fund, and the officer who shall be adjudged to pay any fine as provided in this section shall also be adjudged to pay the costs of prosecution. Fine for neglect.

SEC. 3. It shall be the duty of the chairman as aforesaid to keep in repair all guide boards erected as provided in section one, subject to the same penalty for neglect of duty as provided in section two of this act; the cost of such repairs shall be paid by the town. To keep guide boards in repair.

SEC. 4. If any person shall deface, injure or destroy guide-post or guide-board, erected in any town of this state, and shall neglect for the space of ten days thereafter to repair and restore the same to as perfect condition as it was previous to such defacing, injuring or destruction, such person shall be adjudged, on complaint of any person, to pay damages to three times the cost of repairing and restoring such guide-boards as aforesaid, together with cost of prosecution; such damages to be recovered before any justice of the county. Injury to same

SEC. 5. It shall be the especial duty of any town supervisor who has knowledge that an offence mentioned in section four has been committed within his town, to make diligent effort for the detection of the person by whom such offence was committed, and to prosecute for and collect the damages for the use of the town. Detection of persons doing injury to boards.

SEC. 6. That all acts and parts of acts contravening the provisions of this act, are hereby repealed. Repealed.

SEC. 7. This act shall be published immediately after its passage, and shall be in force from and after its publication.

Approved March 27, 1856.

CHAPTER 33.

Published April 30.

An Act to change the name of John Dress, and constitute him the adopted son of Nicholas Hubing and Margaret Hubing.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed SECTION 1. The name of John Dress, of the town of Belgium, in the county of Ozaukee, is hereby changed to that of John Hubing, and by the last mentioned name, he shall be hereafter known and recognized for all purposes whatever.

Heir. SEC. 2. The said John Hubing shall be known as the adopted son and heir of Nicholas Hubing, and his wife Margaret Hubing, of said town of Belgium, and entitled to all the rights and privileges, and subject to all the duties of inheritance, support and maintenance, as fully and effectually, and in the same manner, as he might or should do, if he were the legitimate child of the said Nicholas and Margaret Hubing.

SEC. 2. This act shall be in force from and after its passage and publication.

Approved March 27, 1856.

CHAPTER 34.

Published April 30.

An Act to change the name of Ella P. Ward to that of Ella P. Ward Morris.

The People of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

Name changed SECTION 1. The name of Ella P. Ward, of the city of Fond du Lac, in Fond du Lac county, an infant, is hereby changed to that of Ella P. Ward Morris, and by that last mentioned name, she shall be hereafter known and recog nized.

SEC. 2. The said Ella P. Ward Morris shall be known as the adopted daughter of Richard L. Morris and Susan A. Morris, his wife, of the said city of Fond du Lac, and shall be subject to all the duties and entitled to all the rights of support, maintenance and inheritance, as fully and effectually, and in the same manner as if she might or should if she were the legitimate child of the said Richard L. Morris and Susan A. Morris. Adopted.

SEC. 3. For the purpose of giving effect to this act, the said Richard L. and Susan A. Morris, may execute their instrument in writing, under their hands and seals, and duly acknowledged by them, before the Judge of Probate, of the county in which they reside, expressing their assent to the provisions of this act, and shall file the same with a copy of this act thereto attached, in the office of said judge, who shall record the same in the record of wills and testaments. To file assent.

SEC. 4. This act shall take effect as to the first section thereof, from and after the passage of this act, and as to the remainder thereof, it shall take [effect] from and after the time of recording said assent as provided in the third section of this act. When to take effect.

Approved March 28, 1856.

CHAPTER 35.

Published in Extra April 16.

An Act to amend section sixty-seven of chapter fifteen of the Revised Statutes

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section sixty-seven of chapter fifteen of the revised statutes, entitled of the assessment and collection of taxes, is hereby amended so as to read as follows: "Each town treasurer shall receive two per centum on all sums collected by him as such treasurer prior to the twenty-fifth day of December, in each year, and on all sums collected after the twenty-fifth day of December, five per cent., to be retained out of the money he may so collect Amendment.

or receive; and in case of a distress and sale by him of goods and chattels for the payment of any tax, he shall be entitled to collect and receive from the same in addition, such fees as constables are authorized to receive for levying upon and selling goods under execution.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 28, 1856.

CHAPTER 36.

Published April 30.

An Act to authorize the Secretary of State to audit certain accounts, and provide for the payment of the same.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Secretary of state to audit certain accounts.

SECTION 1. The secretary of state is hereby authorized to audit the several claims of persons attending as witnesses, before the judiciary committee, in the matter of the investigation of the frauds in the late general election, upon the certificates that may be issued for mileage and attendance of witnesses before said committee, by the chairman of the judiciary committee of the senate. The compensation of said witnesses being hereby fixed at two dollars per day for attendance, and at six cents per mile, traveling fees, going and returning by the nearest public road. The treasurer is hereby directed to pay to said witnesses, upon the certificate of the secretary of state, the several sums so audited and allowed, and certified by him.

Same.

SEC. 2. The secretary of state is hereby also authorized to audit the accounts of the sergeant-at-arms of the senate for subpoening witnesses to attend before the judiciary committee of the senate, in the matter of said investigation, upon certificate of service, that may be issued by the chairman of said committee. The compensation of the sergeant-at-arms for said services is hereby fixed at six cents per mile for each mile actually travelled, going and returning, and fifty cents for service of subpoena on each

witness, at the treasurer is hereby directed to pay to said sergeant-at-arms, upon the certificate of the secretary of state, the several sums so audited and allowed by him.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 28, 1856.

CHAPTER 37.

Published April 30.

An Act to change the name of Salena Richardson to Salena Wilson.

The People of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

SECTION 1. The name of Salena Richardson, of Black Earth, Dane county, an infant orphan, ten years of age, is hereby changed to Salena Wilson, and by the last mentioned name she shall hereafter be known and recognized. Name changed

SEC. 2. The said Salena Wilson shall be known as the adopted daughter and heir-at-law of Charles Wilson and his wife Elizabeth Wilson, of the said town of Black Earth, and as such be entitled to all the rights, privileges and customs, and subject to all the duties of inheritance, support and maintenance as fully and effectually, and in the same manner, as she might or should do, if she were the legitimate child of the said Charles Wilson and Elizabeth Wilson. Heir-at-law.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 28, 1856.

CHAPTER 38.

Published May 2.

An Act to change the name of Adolphina Frantz to Adolphina Frantz Downs

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed

SECTION 1. The name of Adolphina Frantz, now living in the town of Grafton, Ozaukee county, is hereby changed to Adolphina Frantz Downs, by which name she shall hereafter be known in law, for all purposes whatever.

SEC. 2. This act shall take effect from and after its passage.

Approved March 28, 1856.

CHAPTER 39.

Published April 23.

An Act to fix the time of holding the terms of the Circuit Court in the Third Judicial Circuit.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Time of holding court in certain counties.

SECTION 1. The general terms of the circuit court for the third judicial circuit, shall be held as follows: In the county of Marquette, on the first Monday in March, and on the second Monday of September, in each year. In the county of Dodge, on the third Monday in March, and the fourth Monday in September, in each year. In the county of Washington, on the first Monday in April, and the second Monday in October, in each year. In the county of Ozaukee, on the third Monday of April and the fourth Monday in October, in each year.

Writs, &c. returnable.

SEC. 2. This act shall take effect from and after the first day of June next, and all writs, processes, recognizances or other proceedings made returnable by any laws of this

state, to the terms of the circuit courts mentioned in this act, which shall issue or be had after the next terms of the several circuit courts, as now provided by law, shall be returnable to the first terms of the courts next after the first day of June next, of the respective counties mentioned in this act.

Approved March 28, 1856.

CHAPTER 40.

Published May 5.

An Act requiring commissioners of School and University lands to make monthly reports to the state superintendent of public instruction.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. It shall be the duty of the commissioners of the school and university lands to make on the first Monday of each and every month, a report to the state superintendent of public instruction, showing all transactions during the month previous, in relation to the sale of school lands, loaning of school fund, receipt of income, showing the exact amount of school fund loaned, and the amount received from all sources, separately, each item by itself, as follows: 1st. Amount received from sale of school and university lands. 2d. Amount of interest received on all loans. 3d. Amount of forfeitures. 4th. Amount of fines. 5th. Number of acres of school and university lands sold, and to whom sold. 6th. Amount of school and university fund loaned during the month. 7th. Amount of school and university fund on hand. 8th. Amount of income on hand. 9th. All other transactions relating to the school or university fund or income of the same during the month. Commissioners to school and university lands to make monthly reports.

SEC. 2. The superintendent of public instruction, on receiving such report, shall place the same on record in his office, and cause the same to be published in the state paper at Madison. To place same on record.

SEC. 8. This act shall take effect immediately on and after its passage.

Approved March 28, 1856.

CHAPTER 41.

Published in Extra April 16.

An Act in relation to the recording of certain Deeds.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Recording of deeds.

SECTION 1. Whenever any deed of lands, situated in different counties within this state, whether executed before or after the passage of this act, shall have been recorded in any county within which any of such lands may be situated, a copy of the record of such deed, certified by the register of deeds of the county in which such deed has been recorded, may be recorded in any other county in which any of such lands may be situated, in the same manner and with the like force and effect as the original deed: *Provided*, That no such certified copy of the record of any deed shall be recorded until the grantee therein mentioned or his agent, assigns, heirs, executors or administrators, shall make an affidavit that the original deed is either lost or destroyed, which said affidavit shall be endorsed on and recorded with said certified copy of the record of such deed.

Proviso.

To construe.

SEC. 2. The word "deed" mentioned in the preceding section, shall be construed to include all deeds, mortgages, contracts or other instruments relating to lands, which may have been properly recorded.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 28, 1856.

CHAPTER 42.

Published May 5.

An Act requiring County Superintendents of the Poor to give security for the performance of their duties.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Every county superintendent of the poor, who shall hereafter be elected under and in pursuance of section thirty-three, of chapter twenty eight of the revised statutes, shall within ten days after notice of his election, and before entering upon the duties of his office, execute to the county board of supervisors of his county, his bond with two or more sufficient sureties, to be approved by said board of supervisors, and in such penal sum as the said board shall direct, which bond, with the approval of the board endorsed thereon by their clerk, shall be filed with said clerk; such bond shall be conditioned in substance that he will faithfully and properly perform all the duties of the office of county superintendent of the poor, and will pay over and disburse according to law, all moneys that shall come to his hands as such superintendent, and that he will render a just and true account thereof whenever required by the county board of supervisors, or by any provisions of law, and will deliver over to his successor, or to any other person or persons authorized by law to receive the same, all moneys, books, papers and other things appertaining or belonging to his said office.

Superintendents of poor to give security for faithful performance of duty.

SEC. 2. This act shall take effect from and after its passage and publication.

Approved March 28, 1856.

CHAPTER 43.

Published May 6.

An Act to regulate the terms of the circuit courts in the counties comprising the seventh judicial circuit.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Time of holding court in seventh judicial circuit.

SECTION 1. From and after the first day of June, 1856, the terms of the circuit court shall be holden in the counties of Adams, Marathon, Portage, Waushara and Waupacca, in the seventh judicial circuit, at the time following, in each year: In the county of Marathon on the second Monday of March and last Monday of August. In the county of Portage on the fourth Monday of March and second Monday of September. In the county of Waupacca on the first Monday of April and second Monday in October. In the county of Waushara on the second Monday of April and first Monday in October. In the county of Adams on the third monday of April and fourth Monday in September.

Writs, &c. returnable.

SEC 2. All writs, summons, indictments, recognizances and other proceedings made returnable by any law of this state now in force, to the circuit courts of said counties, shall be deemed and taken to be returnable to the terms of said courts as fixed by this act, and all adjournments, appearances, continuances, motions and notices of any proceedings in said courts, made or taken to any term of a date subsequent to the term when this act shall take effect, shall be made and taken for the time herein before fixed for holding the terms of said court.

Special terms.

SEC. 3. It shall not be obligatory on the judge of said seventh circuit to hold special terms therein, unless in his opinion there is business in any of said courts requiring the holding of special terms.

Repealing clause.

SEC. 4. All laws now in force in this state inconsistent with the provisions of this act, are hereby repealed.

Approved March 28, 1856.

CHAPTER 44.

Published May 7.

An Act to change the name of Eva Viola Keene, to Eva Viola Gill, and to constitute the said Eva Viola, hier-at-law of Bolivar G. Gill and Sarah S. Gill, his wife.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. That the name of Eva Viola Keene, daughter of Ephriam Keene, late of Ozaukee county, deceased, shall be and is hereby changed to Eva Viola Gill, and by the last name she shall hereafter be called and known in popular nomenclature, and in law. **Name changed**

SEC. 2. That the said Eva Viola Gill shall be esteemed and taken in law to be the child and heir-at-law of Bolivar G. Gill and Sarah S. Gill, his wife, of said Ozaukee county, and the natural obligation of parent and child shall exist and pertain as fully between the foster parents and foster child mentioned herein, as in the case of natural parentage; *Provided*, That before this act shall become binding and effectual, the said Bolivar G. Gill and Sarah S., his wife, shall assent in writing, under their hands and seals, to the provisions of this act, which writing shall be witnessed by two witnesses, and be filed with and recorded by the register of deeds (in the book of deeds) of said county of Ozaukee. **Heir-at-law.** **Proviso.**

SEC. 3. This act shall take effect from and after its passage, publication, and a full compliance with the provisions contained in the second section of this act. **When to take effect.**

Approved March 28, 1856.

CHAPTER 45.

Published May 8.

AN ACT to define the boundaries of the county of Winnebago.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Boundaries of Winnebago county.

SECTION 1. The district of country included within the following boundaries, shall form and constitute the county of Winnebago, to wit: Beginning at the northeast corner of township twenty, north of range seventeen, east of the fourth principal meridian, running thence due south through Lake Winnebago, until it intersects a line running due east and west, between township sixteen and seventeen north, thence west of said line to the southwest corner of township seventeen, north of range fourteen east, thence north on the range line, to the northwest corner of township twenty, north of range fourteen east, thence east on the township line to the place of beginning.

Attached to Shawanaw county.

SEC. 2. Townships twenty six, twenty seven, twenty-eight and twenty-nine, north of range ten and eleven east, are hereby deducted from Winnebago county, and attached to Shawanaw county.

Attached to Oconto county

SEC. 3. All that district of country attached to the county of Winnebago, which lies north of the line dividing townships twenty-nine and thirty north, is hereby detached from Winnebago county and attached to the county of Oconto.

SEC. 4. This act shall take effect from and after its passage.

Approved March 28, 1856.

CHAPTER 46.

Published May 9.

An Act to change the name of Elizabeth Van Antwerp to Sally Elizabeth Smith, and to provide for her adoption as the child and heir-at-law of Benjamin A. Smith and Sally Smith, his wife.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed.

SECTION 1. The name of Elizabeth Van Antwerp, is hereby changed to Sally Elizabeth Smith, by which name she shall be hereafter known in all cases and proceedings whatsoever, and the said Sally Elizabeth Smith is hereby declared to be the child and heir at law of Benjamin A. Smith and Sally Smith, his wife, and it is hereby made their duty to maintain, support and educate the said Sally Elizabeth in the same manner as if she were the natural child of the said Benjamin A. and Sally Smith.

When to take effect.

SEC. 2. This act shall have no force and effect, until the said Benjamin A. Smith and Lovina Austin, the natural mother and only surviving parent of Elizabeth Van Antwerp first before named, shall have assented and executed an instrument in writing, said instrument to be subscribed by them, witnessed and acknowledged in the same manner as is now required in the execution of deeds, nor until said instrument so executed shall be recorded in the office of register of deeds in the county of Rock, in which county the said Benjamin A. and Sally Smith reside.

SEC. 3. This act shall be in force from and after its passage and publication.

Approved March 28, 1856.

CHAPTER 47.

Published May 8.

An Act to constitute Carrie Shaver the adopted daughter of Gilbert Shaver and Lucy M. Shaver

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed

SECTION 1. That Carrie Shaver, infant daughter of Nelson Shaver, deceased, and of Caroline Shaver, his widow, shall be the child and heir-at-law of Gilbert Shaver, and Lucy M. Shaver, his wife, of Hudson, in the county of Walworth and State of Wisconsin, and that the obligation of parent to child and child to parent shall pertain as fully between the parties herein mentioned as in the case of natural parentage and decent.

Proviso.

SEC. 2. This act shall take effect from and after its passage: *Provided*, That before this act shall become binding and effective, the said Gilbert Shaver and Lucy M. Shaver, his wife, and Caroline Shaver, the mother of Carrie Shaver, shall assent in writing under their hand and seal to the provisions of this act, which writing shall be witnessed by two witnesses and be filed and recorded by the register of deeds of said county of Walworth.

Approved March 28, 1856.

CHAPTER 48.

Published May 8.

An Act to amend Chapter 35 of the Revised Statutes.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendment.

SECTION 1. Section first of chapter 35 of the Revised Statutes is hereby amended so as to read as follows, viz:

"SEC. 1. Whenever any logs, timber, boards or planks, in rafts or otherwise, shall be drifted upon any island in any of the warters within this state, or upon the bank or shore

of such waters, the owner of such logs, timber or lumber, may at any time within three years remove the same on paying or tendering to the owner or occupant of such land such reasonable damages as may be caused by reason of such removal or non-removal, and if the owner shall not within said time, make such payment or tender and take such logs, timber or lumber from such lands, unless he and the owner or occupant of such lands shall otherwise agree, the same shall be deemed the property of such owner or occupant of the lands: *Provided*, The owner or occupant of the lands may give written notice to the owner of such logs, timber or lumber to remove the same, giving a description of the marks, if any, or kind of logs, timber or lumber, and the description of the place where such logs, timber or lumber are, or if the owner be unknown or cannot be found, by publishing a notice in some newspaper published in the county where such logs, timber or lumber may be, if there be one, if not, in an adjoining county, at least once in each week for three successive weeks, and if such logs, timber or lumber be not claimed and removed from said land within six months after such notice, said logs, timber and lumber shall be deemed the property of the owner or occupant of said lands"

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 28, 1856.

CHAPTER 49.

Published April 5.

An Act to consolidate and amend an act entitled "an act providing more fully for the organization of the State Prison, and for repealing chapter 287 of the session laws of 1851," approved April 19, 1852, and of the several acts amendatory thereto.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The state prison at Waupun, in the county of Dodge, shall be the general penetentiary and prison of the state of Wisconsin, for the reformation as well as for the **State prison.**

punishment of offenders, in which shall be confined, employed in hard labor, and governed in the manner hereinafter directed, all offenders who have been committed and sentenced according to law to the punishment of solitary imprisonment, or imprisonment and confinement therein at hard labor.

ommissioner. SEC. 2. The organization of the state prison shall consist of one commissioner, who shall be known and styled state prison commissioner, and who shall be elected by the people at the general election in November, at the same time and in the same manner as is the governor and other state officers, and who shall hold his office for the term of two years from the first day of January next succeeding said election, and until his successor shall be elected and qualified: said commissioner shall be warden and treasurer of the prison.

ommissioner appoint offi- rs, &c. SEC. 3. The commissioner shall appoint one person to perform the duties of deputy warden and clerk: he shall also appoint one chaplain, one superintendent of the stone department, who shall be overseer; one gate keeper, one turnkey, eight guards, one overseer of cooking department, one overseer or keeper of each department of mechanical labor which is or may be established in the prison, and one matron for the female prison department: said commissioner is hereby further authorized in all cases of emergent necessity to appoint such other additions to the police force as the emergency may reasonably require, during the time such emergency may exist; all persons so appointed, shall hold their offices during the pleasure of the commissioner.

ules and re- lations. SEC. 4. The commissioner shall make such rules and regulations not inconsistent with the laws of this state, for the government of the officers and convicts of the prison, as he may deem necessary and proper, subject to the approval of the governor.

ommissioner reside with- prison, &c. SEC. 5. The commissioner shall reside within the precincts of the prison, and neither the commissioner nor any prison officer appointed by him, or holding an office in the prison under him, shall directly or indirectly have any concern in, pecuniarily, nor hold any interest in any contract, either verbal or written, which may be entered into by said commissioner on the part of the state for any purpose whatever connected with the business or interests of the prison.

SEC. 6. The officers of the prison shall receive the following compensation for their services, to wit: the commissioner shall receive the sum of two dollars and fifty cents per day, and 6 cents per mile for every mile actually traveled in the discharge of his duty; the deputy warden shall receive the sum of two dollars and fifty cents per day; the chaplain the sum of two hundred and fifty dollars per year; the superintendent of stone department shall receive the sum of two dollars per day; the gatekeeper shall receive the sum of one dollar and twenty-five cents per day; the turnkey the sum of one dollar and twenty-five cents per day; the overseer in cooking department the sum of one dollar and twenty-five cents per day; the keepers in the respective departments of mechanical labor one dollar and twenty-five cents per day each; the guards shall receive the sum of one dollar and fifty cents per day each; and the matron shall receive the sum of five dollars per week; and the money accruing to the aforenamed officers, by virtue of such compensation shall be paid in quarterly payments by the commissioner out of the treasury of the prison upon appropriations made by the legislature for that purpose. Compensation of officers.

SEC. 7. The commissioner shall be entitled, in addition to the compensation mentioned in the foregoing section, to all necessary fuel for his family use. Commissioner entitled to fuel.

SEC. 8. The commissioner shall, on the 31st day of December in each year, make an annual detailed report to the governor, verified on oath, which shall contain a full and accurate statement of all the concerns of the prison, for the year ending on the said 31st day of December; also, a list of the convicts who have been discharged, pardoned, and died during the year, and an estimate of expenses for the ensuing year, which report shall be laid before the legislature by the governor. Annual report.

SEC. 9. The commissioner shall have the charge and custody of the prison, with the lands, buildings, furniture, tools, implements, stock and provisions, and every other species of property pertaining thereto, or within the precincts thereof, and shall superintend the police of the prison, and discipline of convicts; he shall be treasurer of the prison, and shall receive and pay out all moneys granted by the legislature for the support of the prison, and such as may accrue from business in the shops, under contract or otherwise, rentage, or the sale of any article or articles of chattel property. Commissioner to have charge of prisoners, lands, &c.

Accounts of prison, &c.—how kept.

SEC. 10. The deputy warden and clerk shall keep, in suitable books, regular and complete accounts of all the expenses, income, business and concern of the establishment; also, a register of all convicts received, discharged, pardoned, or died, and such other matters as may be necessary in statistics of the kind; he shall at all suitable hours permit the commissioner and all other authorized persons to examine all books in his office; it shall be his duty to perform the duties of the commissioner in his absence, and for the purpose of fully complying with the requisitions in this section, he shall be required to reside within the precincts of the prison grounds; he shall, under the direction of the commissioner, assist him in administering the government and discipline of the prison, and he shall perform all the duties and have all the powers and shall be subject to all the obligations and liabilities of the commissioner, in case of the disability of that officer or vacancy in that office.

Sheriff's delivery of convicts, &c.

SEC. 11. It shall be the duty of the sheriff or deputy sheriff of each county in this state, to convey to the state prison all persons convicted in his county and sentenced to be confined in said prison, as soon as may be after such conviction and sentence shall have been had; and after delivering such convict or convicts to the commissioner, together with a copy of the sentence of the court ordering such imprisonment, said sheriff or deputy sheriff shall take a receipt of such delivery and file the same in the office of the clerk of the circuit where such coviction and sentence were had; and the sheriff or deputy shall be entitled for his services so rendered, the following fees, which shall be in full, viz: for conveying, guarding, boarding and lodging one prisoner, fifty cents per mile, and for each additional prisoner, twenty-five cents per mile.

When delivered under the influence of liquor—commissioner's duty.

SEC. 12. Whenever a sheriff or deputy sheriff shall deliver to the commissioner a prisoner or prisoners, who shall be under the influence of spirituous liquors at the time of such delivery, said commissioner shall state in his receipt to the sheriff or deputy sheriff the condition in which such prisoner or prisoners were delivered, and he shall, in such case, make a duplicate receipt and send the same to the clerk of the circuit court, where the conviction and sentence of such prisoner or prisoners were had, who shall file the same in his office.

Chaplain.

SEC. 13. The chaplain shall hold divine service in the chapel of the prison at least once on each sabbath, instruct

the prisoners in their moral and religious duties, and visit the sick on all suitable occasions.

SEC. 14. Whenever any convict shall complain of any such illness as requires medical aid, the warden shall employ some physician who shall visit such convict, and if in the opinion of such physician the illness is such as require his removal to the hospital, the warden may order such removal and the convict shall remain in the hospital until the physician shall determine that he may leave it without injury to his health. Illness of convicts.

SEC. 15. Before the commissioner enters upon the duties of his office he shall give a bond to the state of Wisconsin in the sum of twenty thousand dollars, with two or more sufficient sureties to be approved by the governor, conditioned that he will faithfully account for all moneys placed in his hands as prison treasurer, and perform all the duties incumbent on him as commissioner and warden of the prison; he shall also before entering on the duties of his office take and subscribe an oath to support the constitution of the United States, and of the state of Wisconsin, and that he will discharge the duties of his office faithfully and to the best of his ability, and such bonds with the approval of the governor endorsed thereon, and the oath aforesaid, shall be filed in the office of the secretary of state. Commissioner's bond.

SEC. 16. Before the deputy warden and clerk enters upon the duties of his office, he shall give bonds to the state of Wisconsin in the sum of ten thousand dollars, with two or more sufficient sureties, to be approved by the governor, conditioned that he will faithfully perform all the duties incumbent on him as deputy warden and clerk of the said prison, and such bond when so approved shall be filed in the office of the secretary of state. Bonds of deputy warden and clerk.

SEC. 17. All contracts made on the part of the state by the commissioner on account of the prison, shall be made in writing, and approved by the governor before taking effect, unless when the wants or necessities of the prison shall compel the commissioner to purchase supplies of any kind immediately, in which case he may purchase the same upon verbal agreement, and in either case the commissioner or his successor may sue or be sued thereon to final judgment and execution. No suit shall abate by reason of the office of commissioner becoming vacant, but any successor of the commissioner, pending such suit, may take upon himself the prosecution or defense thereof, Contracts—how made.

and upon the motion of the adverse party and notice he shall be required so to do.

Controversies respecting contracts—how settled.

SEC. 18. Whenever a controversy shall arise respecting any contract made by the commissioner, on account of the prison, or a suit shall be pending thereon, the commissioner may submit the same to the final determination of arbitrators or referees, to be appointed by the governor.

Contracts.

SEC. 19. Whenever the commissioner shall determine to contract for the furnishing of the principal articles purchased for the use of the prison, such as food, fuel, stone, iron and steel, the same shall be contracted for by the year, when such contracts can be advantageously made; and the commissioner shall give previous notice in at least two newspapers printed in the state of Wisconsin, of the articles wanted, the quantity and quality thereof, as nearly as the same can be ascertained, the time and manner of delivery, and the period during which proposals for furnishing such articles will be received. Such notice shall be published at least three successive weeks.

Proposals.

SEC. 20. All such proposals shall be in writing, and sealed up, and on the day appointed in the notice mentioned in the forgoing section, they shall be opened by the commissioner, who shall cause all offers made in such proposals to be entered in a book and compared. The person offering the best terms, together with satisfactory security for the performance, which shall be required by the commisioner in said notice, shall be entitled to the contract, unless it shall appear to the commissioner that no one of the offers are as low as the fair market price; in that case no offer shall be accepted, but the commissioner may, if he thinks necessary, advertise again and proceed as before provided for.

Contractor's bond.

SEC. 21. All persons contracting under the provisions of the preceding sections, shall give bonds to the commissioner in a reasonable sum, with satisfactory security, for the faithful performance of their contracts.

Bills of supplies to be compared.

SEC. 22. The commissioner shall take bills of the quantity and price of the supplies furnished in all cases where the same is practicable, at the time of their delivery, and the clerk, or such officer as the clerk shall direct shall compare the bill with the articles delivered, and if the same are found correct, he shall make a corresponding entry on the account books of the prison, and file the bill as a voucher of the fact of such delivery. If any bill so rendered for supplies shall be discovered to be incorrect,

on comparing it with the articles delivered, the clerk shall immediately give notice to the person furnishing the supplies.

SEC. 23. All processes to be served within the precincts of the prison, either upon convicts or upon persons or officers employed within the precincts of the prison, shall be served by the commissioner or deputy warden; and all officers of the prison shall be exempt from military duty, from serving on juries in any court, and from highway poll tax. Processes—how served.

SEC. 24. All convicts in the prison shall be in the charge and custody of the commissioner, who shall govern and employ them in the manner prescribed by law, the rules and regulations of the prison, and in conformity to the respective sentences under which they shall be committed. Government of prisoners.

SEC. 25. All officers and persons employed in and about the prison, shall perform such duties in the charge and oversight of the prison, the care of the property belonging thereunto, and the custody, government, discipline and employment of the convicts, as shall be required of them by the commissioner in conformity to law, and the rules and regulations of the prison. Officers—duties.

SEC. 26. The warden shall receive into the state prison all persons convicted before any court of the United States held within the state of Wisconsin, and sentenced by such court to the punishment of imprisonment at hard labor in the said prison, and he shall safely keep and employ such convicts pursuant to their sentence, and the rules and regulations of the prison, until such sentence shall be performed, or the said convicts shall be otherwise discharged by due course of law of the United States. Warden—duties.

SEC. 27. Whenever any convict, sentenced by any court of this state or the United States, to be punished by imprisonment in the state prison, shall, at the time of conviction and sentence, hold any office under the constitution and laws of this state, such office shall be deemed vacated from the time of his commitment to said prison, but if the judgment against such convict shall be reversed on writ of error, he shall be restored to his office, with all its rights and emoluments; but if pardoned, he shall not, by reason thereof, be restored, unless it shall be so expressly ordered by the terms of pardon. Convicts.

SEC. 28. Every convict against whom the punishment of solitary imprisonment shall be awarded by sentence of court, or for violation of any of the rules and regulations Violation of rules.

of the prison; shall be confined in one of the solitary cells and during such confinement shall be fed on bread and water only, unless a physician called upon to ascertain the fact, shall certify to the warden that the health of such convict requires other diet.

Convict sentenced to hard labor.

SEC. 29. All convicts sentenced to the punishment of hard labor in the said prison, shall be constantly employed for the benefit of the state; no communication shall be allowed between them and any person without the prison; they shall be confined in separate cells in the night time, and in the day time all intercourse between them shall be as far as is practicable prevented.

Attempting to escape.

SEC. 30. If any convict committed to the state prison, under sentence for a limited time, shall escape therefrom, or shall attempt by violence to escape, or shall assault the commissioner or other officer or person employed in the government or custody of said prison, he shall be punished by imprisonment in said prison, not more than ten years in addition to his former sentence, and also by solitary imprisonment not more than one year, to be executed forthwith, or at such time or times either before or after the expiration of any former sentence, as the circuit court of Dodge county shall direct.

Escape.

SEC. 31. If any convict in the state prison under sentence of imprisonment for life, shall escape therefrom, or shall attempt by violence to escape, or shall commit any such assault as is mentioned in the preceding section, he shall be punished by solitary imprisonment not more than one year, to be executed at such time or times as the circuit court shall direct.

Officers aiding convict to escape.

SEC. 32. If any officer or other person employed in the state prison shall voluntarily suffer any convict therein to escape, or shall in any way consent to such escape, he shall be punished by imprisonment in the state prison not more than twenty years.

Employment of prisoners.

SEC. 33. If the commissioner of the prison shall at any time deem it for the interest of the state, he may employ the convicts outside the prison or yard, in quarrying and getting stone and cultivating the prison farm, when the same came can be done with safety as regards the security of the convicts from escape, and in all such cases the commissioner shall detail a sufficient force of the prison police, to watch and guard the convicts when so employed.

Officers violating rules, &c.

SEC. 34. If any officer or person employed in the state prison, shall suffer any convict under sentence of solitary

nfinement to be at large or out of the cell assigned m, or shall suffer any convict confined in said prison to at large, except in accordance with the provisions of is act, or allow said convicts to be visited, conversed ith, or in any manner to be relieved or comforted, conary to the regulations of the prison, he shall be punished fine not exceeding five hundred dollars.

Punishment for aiding to escape.

SEC. 35. Every person who shall convey into the state rison any disguise, instrument, tool, weapon, or thing, lapted or useful to aid any convict in making his escape erefrom, with intent to faciliate the escape of any conict there lawfully committed or detained, or who shall any means aid any convict in his endeavor or escape, hether such escape be effected or not, and every person ho shall forcibly or fraudulently rescue or attempt to rese any convict held in custody by any officer or other erson, shall refuse to assist in securing any convict when ttempting to escape from an officer or from prison, shall e punished by imprisonment in the said prison not more an ten years, or by fine not exceeding five hundred dolrs.

Delivering articles to prisoners contrary to rules, &c.

SEC. 36. If any officer or other person shall deliver or rocure to be delivered, or shall have in his or her possesion with intent to deliver to any convict confined in the tate prison, or shall deposit or conceal in or about said rison or the dependencies thereof, or in any carriage or ther vehicle going into the premises belonging to said rison, any article or thing whatever, with intent that any onvict confined in said prison should obtain or receive he same, or if any officer or other person shall receive rom any convict any article or thing whatever with intent o convey the same out of said prison contrary to the rules nd regulations of said prison, and without the knowldge or permission of the warden or commissioner of the rison, every such person shall be punished by imprisonnent in the state prison or in the county jail not more han two years, or by fine not exceeding five hundred lollars.

Circuit court of Dodge co. to have jurisdiction, &c.

SEC. 37. The circuit court of Dodge county shall have urisdiction of all crimes and offenses committed within he state prison and the precincts thereof, and for the purpose of all judicial proceedings, the said prison and the precincts thereof, shall be deemed in law to be within and a part of the county of Dodge. The daily sustenance of convicts not in solitary confinement, nor in the hospital,

shall consist of healthy, coarse food, with such propor of meat and vegetables as the commissioner shall de best for the health of the convicts.

Articles forbidden convicts.

SEC. 38. No tea, sugar, coffee, tobacco, snuff, spiritu liquors, or any articles of indulgence, shall be allowed convict, except by order of the physician, which on shall be in writing, and for a definite period, not exce ing one month.

Clothing and bedding.

SEC. 39. The clothing and bedding of convicts shall of such quality and quantity as the judgment of the co missioner may direct, consulting the health and comf of the convict, and the interest of the state.

Commissioner —duties.

SEC. 40. All necessary means shall be used, under direction of the commissioner, to maintain order in prison, enforce obedience, suppress insurrection, and fectually prevent escapes, even at the hazard of life, which purpose he may at all times command the aid of the officers of the institution, and of all the citizens outs the precincts of the prison; and any citizen refusing obey such command shall be held liable to such fi penalties or forfeitures as apply to persons refusing obey a sheriff or any other officer calling upon the aid the county to assist in serving a process for quelling surrection.

Governor to visit prison.

SEC. 41. The governor shall visit the prison, once least in each year, and make such suggestions in reg to the management, government and discipline of the stitution as he may deem for the interest of the same.

New bond.

SEC. 42. Whenever the governor shall deem it necess he may require the commissioner to file new bonds, w satisfactory security, in a larger sum than that specif in section 15 of this act, subject to the approval of governor; but such new bond shall not be larger than necessities of the case may require.

Officers of prison.

SEC. 43. The commissioner shall require of the offic of the prison, that in the execution of their respective d ties, they shall in all cases refrain from boisterous, har and unbecoming language, in giving their orders and co mands.

Warden—duties.

SEC. 44. The warden shall prevent all communicatio between male and female convicts.

To guard against escape of convicts.

SEC. 45. The commissioner may adopt such measures he may deem proper to aid in detecting and capturing caped convicts.

ec. 46. The money and effects, except the clothes in session of such convict when committed to the state on, shall be preserved by the warden, and restored to l convict when discharged or pardoned, unless other- e ordered by the judge of the circuit court of Dodge nty. **Money, &c. of convicts.**

ec. 47. Every convict when discharged or pardoned, ll be provided with a decent suit of clothes and a sum money not exceeding five dollars. **When discharged, &c.**

ec. 48. It shall be the duty of the warden in case of death of any convict, to cause the body to be decently ied, or deliver it to the friends or relatives of such vict, if demanded by them, and if not so demanded, n to the representatives of any medical college in this e. **In case of death.**

ec. 49. Upon the filing of proper and reliable informa- with the governor, made upon oath, that the commis- ner has been guilty of malfeasance, or misconduct in ce, the governor shall cause to come before him on his rant, said commissioner, on a day certain, to answer he charge or charges contained in such information, l also the person or persons who have filed the same, ether with such person or persons as may be designated the informant or the commissioner, at any time during pendency of the question involved in such informa- n, to give evidence on a hearing of the charge or char- preferred. The governor shall proceed, as soon as y be, to hear and determine the charges upon evidence en under oath: and if such malfeasance and miscon- t is substantially proved upon the commissioner, the ernor may decide to remove him; which decision, to- her with the reason therefor, shall be written out at gth, and shall be filed in the office of the secretary of e. **In case of malfeasance of commissioner—duty of governor.**

ec. 50. The commissioner shall have power to do and form any of the duties herein named. **Power of commissioner.**

ec. 51. The warden shall act as librarian, and shall ort to the governor, on the 31st day of December, in h year, the condition of the library and the number l title of all the books therein contained; such report be communicated to the legislature next session. **Librarian—duties.**

ec. 52. The warden shall make an inventory of all perty belonging to the prison, annually, on the 31st y of December, and report the same to the governor as quired in the preceding section. **Warden—duties.**

Repealed, SEC. 53. All acts and parts of acts contravening t provisions of this act are hereby repealed.

SEC. 54. This act shall take effect from and after i publication.

Approved March 29, 1856.

CHAPTER 50.

Published June 13.

An Act to change the name of Adam Jopst to Adam Jefferson.

The people of the State of Wisconsin, represented i Senate and Assembly do enact as follows:

Change name. SECTION 1. The name of Adam Jopst is hereby chang to Adam Jefferson, by which name he shall be hereaf known in law for all purposes whatever.

SEC. 2. This act shall take effect from and after its p sage.

Approved March 29, 1856.

CHAPTER 51.

Published May 9.

An Act to change the name of Thomas Wilson to Thomas Wheatly.

The people of the State of Wisconsin, represented i Senate and Assembly, do enact as follows:

Change name. SECTION 1. The name of Thomas Wilson, of the coun of Iowa, in this state, is hereby changed to Thom Wheatly, by which name of Thomas Wheatly, he sh be and hereby is authorized to sue and made liable to b sued in the same manner as though his name had n been changed.

SEC. 2. This act shall take effect from and after its p sage.

Approved, March 29, 1856.

CHAPTER 52.

Published June 20.

An Act to authorise the Secretary of State to audit the accounts of the Madison Gas Light and Coke Company.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. It shall be the duty of the secretary of state to audit the accounts of the Madison Gas Light and Coke Company for all gas consumed by the state, from and after the 19th day of July, A. D. 1855, and when such accounts are audited and allowed, they shall be paid by the state treasurer, on the order of the secretary of state, out of any money in the treasury, not otherwise appropriated; *Provided*, That no bill for gas shall be allowed by the secretary of state, for any lamps outside of the capital building during the adjournment of the legislature. Secretary of state to audit accounts. Proviso.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 29, 1856.

CHAPTER 53.

Published June 24.

An Act to authorise the Secretary of State to employ and pay clerks for the actual and necessary discharge of the duties of his office.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There shall be annually appropriated to the Secretary of State, such sum as shall be actually and necessarily expended in his office for clerk hire. The sum drawn for such clerk hire shall be drawn on the certificate of the Secretary of State, in favor of the clerks entitled to the same respectively, and the amount of such cer- Secretary of state to employ and pay necessary clerks.

tificate, and the name in whose favor the same is drawn, with a detailed statement of the particular services rendered by the clerk or clerks, verified by the affidavit of the Secretary, shall be set forth in the annual reports of the Secretary of State and State treasurer.

Approved March 29, 1856.

CHAPTER 54.

Published May 9.

An Act to divide the county of Portage and erect the county of Wood.

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

Boundaries of Wood county.

SECTION 1. Towns twenty one, twenty two, twenty three, twenty-four and twenty-five of ranges two, three, four and five, and towns twenty-one and twenty two of range six east of the fourth meridian, and so much of town twenty-three as lies south-east of the Wisconsin river, in range six, are hereby detached from the county of Portage, and shall hereafter constitute a separate county under the name and title of Wood.

Rights, privileges, &c.

SEC. 2. That said county of Wood is hereby erected, established and organized with all the rights, powers and privileges by law granted to other counties of this state, and subject to all general laws established for county government.

Election of officers.

SEC. 3. That at the next general annual election, the electors in said county shall elect all and every of the county officers provided by law for county government, whose term of office shall commence on the first Monday of January next, and shall continue for two years thereafter.

County seat.

SEC. 4. The present village of Grand Rapids is hereby constituted and declared the county seat of said county of Wood, and the said county of Wood is hereby attached to the seventh judicial circuit for judicial purposes, and the circuit court of the seventh judicial circuit of the state of Wisconsin shall hold its session at said county

seat of Wood, commencing on the fourth Monday of April and third Monday of October, in each year, the first term to be held on the fourth Monday of April, 1857.

SEC. 5. The liabilities or indebtedness of the present county of Portage shall be paid, satisfied and discharged rateably by said county of Portage and county of Wood, according to the last assessment of Portage county. **Indebtedness —how paid.**

SEC. 6. All process, appeals, recognizances, and other legal proceedings commenced or pending in the circuit court for the county of Portage, prior to the first Monday of June next, shall be prosecuted to final judgment therein, in the same manner they might have been, had this act not have been passed. **Processes, &c. pending.**

SEC. 7. All writs, process, appeals, recognizance and other legal proceedings taken, had or commenced on or after the first day of January next, in said county of Wood, shall be made returnable in the said county of Wood. **Writs, &c.**

SEC. 8. The counties of Portage and Wood shall, at the first session of the boards of county supervisors in the respective counties, each appoint three commissioners to meet at the village of Plover, in the said county of Portage, within thirty days after their appointment by said boards of county supervisors, to examine into the indebtedness of the said county of Portage, at the time of the division of said county, and also to determine the amount of indebtedness, if any, of the said county of Wood, to the county of Portage, or of the indebtedness of the said county of Portage to the county of Wood, the ratio of indebtedness, to be determined by the amount of taxes paid into the office of the county treasury, by the inhabitants of the respective counties. **Commissioner to determine indebtedness.**

SEC. 9. The boundaries of Portage County are hereby defined and established as follows, to wit: Commencing at the south-west corner of town twenty-one, in range seven, east of the fourth principal meridian, thence east, to the south-east corner of town twenty-one, in range ten, east of the fourth principal meridian, thence north, to the north-east corner of town twenty-five, range ten, east of the fourth principal meridian, thence west, to the north-west corner of town twenty-five, range seven, east of the fourth principal meridian, thence south, to the south-west corner of town twenty-three, in range seven, east of the fourth principal meridian, thence east, on the line between towns twenty-two and twenty-three, to the Wisconsin **Boundaries of Portage co.**

river, thence up the center of the main channel of said river, to the line between town twenty-three, in ranges six and seven, east of said principal meridian, thence south to the point of beginning.

SEC. 10. This act shall take effect and be in force from and after its passage.

Approved March 29, 1856.

CHAPTER 55.

Published April 14.

An Act to amend an act entitled an act to limit the rate of interest, approved March 10, 1851.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendment to act limiting rate of interest

SECTION 1. All bonds, bills, notes, assurances, conveyances, and all other contracts or securities whatever, whereby there is reserved or secured a rate of interest exceeding twelve per cent. shall be valid and effectual to secure the repayment of the principal sum loaned, but no interest shall be recovered on such securities or on any money or other thing loaned by such contract.

SEC. 2. Whenever any person shall apply to any court in this state to be relieved in case of a usurious contract or security, or when any person shall set up the plea of usury in any action or suit instituted against him, such person to be entitled to such relief or the benefit of such plea shall prove a tender of the principal sum of money or thing loaned to the party entitled to receive the same.

Repealed.

SEC. 3. Sections 4, 6 and 8 of an act entitled "an act to limit the rate of interest," approved March 10, 1851, so far as said sections are inconsistent with the provisions of this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved March 29, 1856.

CHAPTER 56.

Published May 9.

An Act to provide for defraying the contingent expenses of the State for the present year.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. For the purpose of defraying the contingent expenses of the state for the present year, and of the several state officers, including stationery, lights, furniture and all other contingent expenses of the state, and of the several state officers, the sum of five thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, to be drawn from the treasury by and expended under the direction of the governor, as the exigences of the public service may require, and it is hereby made the duty of the governor to cause to be transmitted to the legislature at its next session, a detailed statement of the expenditure of this appropriation. **Contingent fund.**

SEC. 2. This act shall be in force and take effect from and after its passage.

Approved March 29, 1856.

CHAPTER 57.

Published June 13.

An Act to change the name of Frank Edward Sherman to Frank Edward Bontello.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The name of Frank Edward Sherman is hereby changed to Frank Edward Bontello, by which name he shall be hereafter known and recognized for all purposes whatever. **Name changed.**

SEC. 2. The said Frank Edward Sherman is hereby constituted the heir-at-law of Robert Bontello, and Mary Bontello his wife.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 58.

Published June 21.

An Act to change the name of Emanuel Slade to Wm. E. Slade.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed.

SECTION 1. The name of Emanuel Slade, of the town of Eagle, and county of Waukesha, is hereby changed to William E. Slade.

To record this act.

SEC. 2. It shall be the duty of the said Slade to cause this act to be recorded in the office of the register of deeds of the county of Waukesha.

SEC. 3. This act shall take effect and be in force after it is passed and recorded as provided in section two.

Approved March 31, 1856.

CHAPTER 59.

Published July 9.

An Act to change the name of Fred Elias Webster to Fred Elias Teetshorn and constitute him the adopted son and heir of Horatio N. Teetshorn.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed.

SECTION 1. The name of Fred Elias Webster, of the county of Walworth, is hereby changed to Fred Elias Teetshorn, and by the last mentioned name he shall hereafter be known and recognized.

SEC. 2. The said Fred Elias Teetshorn is hereby constituted the adopted son and heir-at-law of Horatio N. Teetshorn and his wife, of the county aforesaid, and shall be entitled to all the rights and privileges, and subject to all the duties and obligations which pertain between natural parents and child. **Heir-at-law.**

SEC. 3. This act shall take effect and be in force whenever the said Horatio N. Teetshorn and his wife, with the natural mother of the said Fred Elias shall assent thereto in writing under their hands and seals, and record the same in the office of the register of deeds in the county of Walworth. **When to take effect.**

Approved March 31, 1856.

CHAPTER 60.

Published June 26.

An Act to change the name of Henriette Selsemeier to Henriette Kirchheck.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The name of Henriette Selsemeier, daughter of Charles Selsemeier and Fredericka Kirchheck, formerly Selsemeier, of the town of Herman, in the county of Sheboygan, is hereby changed to that of Henriette Kirchheck, and by the last mentioned name she shall be hereafter known and recognized. **Name changed**

SEC. 2. The said Henriette Kirchheck shall be the adopted daughter and heir-at-law of Willhelm Kirchheck and Fredericka Kirchheck, of said town of Herman, and be entitled to all the rights and privileges of inheritance, support and maintenance, as fully and in the same manner, as if she were the legitimate child of the said Willhelm and Fredericka Kirchheck. **Made heir-at-law, &c.**

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 61.

Published May 12.

An Act to change the name of George R. Rockwell and Martha H. Percel to those of George R. Nulph and Martha H. Nulph.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Names changed. SECTION 1. The names of George R. Rockwell and Martha H. Percel of the town of New Buffalo, in the county of Sauk, are hereby changed to those of George R. Nulph and Martha H. Nulph, and by that last mentioned names they shall hereafter be known and recognized.

Made heirs, &c. SEC. 2. The said George R. Nulph and Martha H. Nulph shall be known as the adopted son and daughter, and heirs-at-law of Moses Nulph and his wife, of said town of New Buffalo, Sauk county, and mutually entitled to all the rights and privileges, and subject to all the duties of inheritance, support and maintenance, as fully and effectually, and in the same manner as they might or should be if they were the legitimate children of Moses Nulph and his wife.

Take effect. SEC. 3. This act shall take effect as soon after its passage as the said Moses Nulph and wife shall file in the office of the county judge of the county of Sauk, their written consent to the provisions of this act.

Approved March 31, 1856.

CHAPTER 62.

Published May 12.

An Act to change the name of Frederick Delmot Gregory to Frederick Johnson.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed SECTION 1. The name of Frederick Delmot Gregory is hereby changed to Frederick Johnson, by which name

ie said person shall be called and known to all legal in-
nts and purposes.

SEC. 3. This act shall take effect and be in force from and
ter its passage.

Approved March 31, 1856.

CHAPTER 63.

Published May 12.

n Act to change the name of Isabella Mary Maynard to Isabella Mary Rollin, and that the same may be made the heir-at-law of Thomas H. Rollin.

The people of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

SECTION 1. That the name of Isabella Mary Maynard, f the village of Berlin, in the county of Marquette, in aid state, be and the same is hereby changed to Isabella Mary Rollin, by which name the same individual shall and nay hereafter be known in all places whatever. Name changed

SEC. 2. And that the said Isabella Mary Rollin be and s hereby made and constituted heir at law of and to the aid Thomas H. Rollin. Heir-at-law.

Approved March 31, 1856.

CHAPTER 64.

Published May 12.

An Act to change the name of Philipp Albert to Phillipp Hess, and make him heir-at-law of John Hess.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The name of Philipp Albert, of the city of Milwaukee, and county of Milwaukee, is hereby changed to Philipp Hess, and by that name he shall be hereafter known and recognized in law for all purposes whatever. Name changed

Heir.

SEC. 2. The said Philipp Hess shall be known as the adopted son and heir of John Hess, of said city of Milwaukee, and shall be entitled to all the rights and privileges, and subject to all the duties of inheritance, support and maintenance, as fully and effectually, and in the same manner as he might or would be if he were the legitimate child of said John Hess.

Take effect.

SEC. 3. This act shall not take effect or be in force until the said John Hess shall assent thereto in writing, under his hand and seal, and record the same in the office of the register of deeds, in and for the county of Milwaukee.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 65.

Published May 12.

An Act to change the name of Frederick Perry to Frederick Judivine.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed

SECTION 1. The name of Frederick Perry, of the town of West Point, Columbia county, is hereby changed to Frederick Judivine, and by that name he shall hereafter be known in all courts and places, and shall be the heir-at-law of Josiah Judivine, of said town of West Point, from and after the time when said Josiah Judivine shall file in the office of the county judge of Columbia county, his consent in writing, to the provisions of this act.

SEC. 2. This act shall take effect from and after its passage.

Approved March 31, 1856.

CHAPTER 66.

Published May 13.

An Act to change the name of Joseph Prinney to Joseph Johnson.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. That the name of Joseph Prinney shall hereafter be Joseph Johnson, by which name the said person shall be called and known to all legal intents and purposes. **Name changed**

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 67.

Published May 12.

An Act to change the names of the persons therein named.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The name of Jacob E. Lewy, is hereby changed to Jacob E. Louis, and that of Rosa Lewy, his wife, to Rosa Louis, also the names of their children, Mathilda Lewy, William Lewy and Clara Lewy, are hereby respectively changed to Mathilda Louis, William Louis, and Clara Louis, by which names said persons shall hereafter, respectively, be known and recognized. **Name changed**

SEC. 2 This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 68.

Published May 13.

An Act to change the name of certain persons therin named.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed

SECTION 1. The names of Frederick Joseph Hoffman, Matthew John Hoffman and Christine Leonore Hoffman, of the city of Milwaukee, in the county of Milwaukee, are hereby changed respectively to Frederick Joseph Becker, Matthew John Becker and Christine Leonore Becker, and by the last mentioned names they shall respectively hereafter be known and recognized.

SEC. 2. This act shall take effect from and after its passage.

Approved March 31, 1856.

CHAPTER 69.

Published May 13.

An Act to authorize the Secretary of State to audit certain accounts for Newspapers.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Secretary of state to audit accounts for newspapers furnished.

SECTION. 1. The secretary of state or assistant secretary of state is hereby authorized and required to audit the accounts of the several newspaper publishers of this state, for newspapers furnished the assembly during the present session, and to settle such accounts, allowing said publishers at the advertised rates of such papers per year for the time such papers were furnished.

Legislature.

SEC. 2. Such accounts shall be verified by oath of such publishers, that the papers were ordered, either by the clerk of the senate, [assembly] or the persons to whom they were

ıt, and furnished, accompanied by a statement of the arly terms of such papers.

SEC. 3. The secretary of state or assistant secretary of ıte, is authorized to draw warrants on the state treasury favor of the respective publishers, for the amounts ınd due them, and there is hereby appropriated out of y moneys in the state treasury, a sum sufficient to meet id drafts. Warrants.

Approved March 31, 1856.

CHAPTER 70.

Published May 13.

An Act to authorize the Secretary of State to audit a certain account.

The people of the State of Wisconsin, represented in enate and Assembly, do enact as follows:

SECTION 1. The secretary of state is hereby authorized) audit and allow the account of George F. C. Steche for is services as mail porter of the several state departıents during the present session of the legislature, and) draw orders on the state treasurer for the amount found ue to him; and there is hereby appropriated out of any noneys in the state treasury, not otherwise appropriated, sum sufficient to meet said drafts. Secretary of state to audit a certain account.

SEC. 2. This act shall take effect and be in force from ınd after its passage.

Approved March 31, 1856.

CHAPTER 71.

Published April 1.

An Act for the revision of the General Laws of the State of Wisconsin.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Governor to appoint revisors of general laws.

SECTION 1. The governor shall, without delay, after the passage of this act, appoint three competent persons as revisors, whose duty it shall be to collect, compile, and digest the general laws of this state for the purpose of preparing a new edition of such laws for publication, and that said revisors report such compilation to the adjourned session of this legislature, the present year, and said revisors shall accompany their report with such proposed amendments as they may think proper to suggest.

Duty of revisors.

SEC. 2. It shall also be the duty of said revisors to prepare a code of practice and pleading for the government of civil actions in this state, which code shall conform as nearly to the code now in use in the State of New York as the constitution of this state and the organization of its judiciary will permit, and said revisors shall likewise report such code of procedure to the legislature at the time prescribed in the foregoing section.

Substitution.

SEC. 3. Should either of said revisors refuse to act or become incapable of acting through sickness or other cause, it shall be the duty of the governor to appoint some suitable person in his stead, but no person so appointed shall be removed by the governor.

Compensation.

SEC. 4. Said revisors shall receive such compensation for their services, not less than $2 50 per day, as the legislature may see proper to allow.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 72.

Published May 13.

An Act to change the name of George Smith to George L. Smith, and to authorize his adoption as the child and lawful heir of Adam Smith and Harriett Smith.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. That George Smith of the town of Henderson, in the county of Jefferson, and state of New York, be and he is hereby constituted the adopted son and heir-at-law of Adam Smith and Harriett Smith, of the town of Farmington, in the county of Jefferson, and state of Wisconsin, and he shall be entitled to all the rights and privileges of support, education and inheritance as fully and effectually and in the same manner as he might or should be if he were the legitimate child of the said Adam Smith and Harriett Smith. Heir-at-law.

SEC. 2. The name of the said George Smith is hereby changed to George L. Smith, and by the name last aforesaid, may and shall be hereafter known and called in all cases and proceedings whatsoever. Name changed.

SEC. 3. This act shall take effect from and after its passage: *Provided*, That the said Adam Smith and Harriett Smith shall file in the office of the secretary of state their written assent under their hands and seals to the provisions of this act, and this act shall go into effect from and after the filing of such written assent as aforesaid. When to take effect.

Approved March 31, 1856.

CHAPTER 73.

Published May 12.

An Act to prevent the obstruction of the navigation of the Wisconsin river and its tributaries.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

To prevent obstruction of Wisconsin river.

SECTION 1. It shall not be lawful for any owner of a saw mill or saw mills on the Wisconsin river, or any of its tributaries, or any other person to throw or permit or suffer to be thrown into said river or any of its tributaries, any slab or slabs or other substances, which may obstruct or hinder the navigation of said river, from or near said mill or mills.

Fine for violating act.

SEC. 2. Any person or persons who shall be convicted of a violation of the provisions of the foregoing section, shall be deemed guilty of a misdemeanor, and shall pay a fine of five dollars, for throwing any slab or other substances which may impede or obstruct the navigation of said river, together with the costs of prosecution.

SEC. 3. Whenever any mill owner shall have been fined for the violation of section one of this act, by any agent or workman of said mill owner, said mill owner may charge said fine to said agent or workman, and may collect the same in the same manner that any other debt may now be collected by law: *Provided*, That said workman or agent shall have thrown the slab or slabs, or other substances into said river or its tributaries without the order of said mill owners.

Proviso.

Prosecutions.

SEC. 4. It shall be the duty of the district attorney of the county in which any violation of this act shall take place, to prosecute for all such violations whenever information of the commission of any such misdemeanor shall come to his knowledge.

Fines.

SEC. 5. All fines accruing under this act may be recovered by an action of debt against the party offending, by warrant on a proper affidavit duly sworn to and filed, setting forth the commission of the offence, as in cases of other misdemeanors and shall be paid into the treasury of the county for the use of said county.

SEC. 6. This act shall take effect and be in force from and after its publication.

Approved March 31, 1856.

CHAPTER 74.

Published May 14.

An Act for the encouragement and promotion of Agriculture.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. It shall be lawful for any number of persons in any county in this state, to associate together and form a county society, to encourage and promote agriculture, domestic manufactures and the mechanic arts therein, and any such society, when organized according to the provisions of this act, shall have all the power of a corporation or body politic, and may sue and be sued, implead and be impleaded, prosecute and defend to final judgment and execution, in any court of law or equity; and may purchase and hold all the real and personal estate which shall be necessary to best promote the object of such association, and which estate shall be exclusively devoted to such object. To form agricultural societies.

SEC. 2. Such societies shall be formed by written articles of association, subscribed by the members thereof, specifying the objects of the society, and the conditions on which subscribers shall become members thereof, and the first meeting shall be notified and held in the manner prescribed in the articles of association. They may adopt a corporate name, either in the original articles of association, or by vote at the first meeting thereof, in which such society shall be organized, and may at any meeting adopt a corporate seal and alter the same at pleasure. Societies—how formed.

SEC. 3. Such societies, not exceeding one in each county, shall be organized by appointing a president, vice president, secretary and treasurer, and such other officers as they may deem proper, to be chosen annually, and to hold their places until others are appointed. Officers.

When formed may adopt by-laws, &c.

SEC. 4. When any such societies are organized as aforesaid, they shall have power to adopt all such by-laws, rules and regulations as they shall judge necessary and expedient to promote the objects thereof, not inconsistent with the constitution and laws of this state.

Record of proceedings.

SEC. 5. It shall be the duty of the secretary of every such society, to keep correct records of all the proceedings of the same, in a book provided for that purpose, and such records may be read in evidence in any court where the interests of such society is concerned.

Annual payment by state treasurer.

SEC. 6. When it shall be made to appear to the satisfaction of the secretary of state that any such society is duly organized in any county according to the provisions of this act, it shall be the duty of the said secretary of state to issue an order to the state treasurer to pay annually to the treasurer of any such society so organized, as aforesaid, on application made therefor, the sum of one hundred dollars; *Provided, nevertheless,* That no such society shall draw any money out of the treasury of this state, as aforesaid, in any year, until it shall also be further made to appear to the satisfaction of the treasurer thereof, that there shall have been subscribed and paid into the treasury of such society, for the sole use and benefit thereof, for the year in question, a sum not less than one hundred dollars.

Proviso.

Premiums.

SEC. 7. All moneys so subscribed or received from the state as aforesaid, shall, after paying the necessary incidental expenses of such societies respectively, be annually paid out for premiums awarded by such societies, in such sums and in such way and manner as they severally, under their by-laws, rules and regulations, shall direct, on such live animals, articles of production and agricultural implements and tools, domestic manufactures, mechanical improvements and productions as are of the growth and manufacture of the county, and also all such experiments and discoveries, or attainments in scientific or practical agriculture as are made within the county where such societies are respectively organized.

Annual statement.

SEC. 8. Each county agricultural society, entitled to receive money from the state treasury, shall, through its treasurer, transmit to the treasurer of the state, in the month of November, annually, a statement of the money so received from the state, together with the amount received from the members of said society for the preceding

year, a statement of the expenditures of all such sums, and the number of the members of said society.

SEC. 9. Each county agricultural society receiving money from the state as aforesaid, shall publish, in the month of January in each year, at their own expense, a statement of the experiments and improvements, and reports of their committees, in one or more newspapers in the county where such society is located, or in an adjoining county, where no paper is published in the county where such society is located, and evidence that the requirements of this act have been complied with, shall be furnished to the state treasury before he shall pay over to any county society the sum appropriated by the state for the benefit of said society. **To publish statement of improvements &c. annually.**

SEC. 10. Live animals, the growth of any foreign state or county, which have been owned and kept in any county in this state, for the term of six months previous to its annual agricultural fair, are hereby placed on the same footing, and may receive the same premiums thereon, as live animals which are the growth of such county. **Animals admitted to fair.**

SEC. 11. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 75.

Published in Extra, April 16.

An Act in relation to non-resident Guardians.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. In all cases when any guardian and his ward may both be non-residents of this state, and such ward may be entitled to personal property of any description in this state, such guardian on producing satisfactory proof to the county court of the proper county by certificates, according to the act of congress in such cases, that he has been duly appointed, and has, as guardian, given bond and security, in the state in which he and his ward **Concerning guardians.**

reside, in double the amount of the value of the prope and it is found that a removal of the property will conflict with the terms of limitation attending the rigl title by which the ward owns or holds the same, then guardian may demand or sue for, and remove any property to the place of residence of himself and war

To comply with certain rules.

SEC. 2. That when such non resident guardian shall sent an exemplified copy under the seal of the pr court in the state of his residence, of all the entries record in relation to his appointment, giving bond, and authenticated as required by the act of Cong aforesaid, the county court of the proper county in state may make suitable orders, discharging any resid guardian, executor or administrator, and authorizing delivery and passing over of such property to such resident guardian, and also requiring receipts to be p ed and filed, if deemed advisable; *Provided*, That in cases, thirty days' notice shall be given to the resid guardian, executor or administrator of the intended plication for the order of removal, and the court may ject the application, and refuse such order whenever satisfied it is for the interest of the ward that such re val shall not take place.

Proviso.

SEC. 3. This act shall take effect from and after its p sage.

Approved March 31, 1856.

CHAPTER 76.

Published May 14.

An Act in relation to Booms on the Wisconsin River.

The People of the State of Wisconsin represented Senate and Assembly, do enact as follows:

Booms to be constructed with a draw.

SECTION 1. All booms which now are or which may after be erected or constructed on the Wisconsin river this state, shall be constructed with a draw or pass way so as to be readily opened, to admit the free pass of all logs, timber and other property through the same some convenient and proper place in said boom.

SEC. 2. It shall be the duty of any person owning, occupying or using any boom on said river whenever any logs, timber, or other property not his or her own, shall pass into such boom, to open such draw or passage way and permit the same to pass out, without unnecessary delay, and if any such persons so owning, occupying or using any such boom shall refuse to open the same, or shall neglect for the space of twenty-four hours, after having been requested so to do, to open said boom and admit any such logs, timber or other property to pass out, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment, in the county jail, for a term not less than ten days nor more than three months, or by a fine of not less than twenty dollars nor more than one hundred dollars, and shall stand committed to jail, until such fine and all costs are paid. To pass logs, &c. through same.

SEC. 3. This act shall take effect and be in force from and after the first day of November next.

Approved March 31, 1856.

CHAPTER 77.

Published in Extra, April 16.

An Act concerning bail in cases of murder.

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

SECTION 1. That no officer other than a judge of the supreme court, or judge of the circuit court, or judge of the county court, shall hereafter be authorized to admit to bail any person charged with the crime of murder. Who shall admit to bail.

SEC. 2. The amount of penalty of the recognizance or bail bond shall be in such sum as in the opinion of the officer taking the same will secure the appearance of the accused for trial. The recognizance shall be signed by the accused and at least two sureties, who shall severally swear that they each own and possess unincumbered real estate, within this state, not exempt from sale on execution, to at least double in value the amount of the recog- Bail bond, &c.

nizance. Such recognizance shall immediately after its execution be filed in the office of the clerk of the circuit court and docketed upon the docket of judgments therein, in the same manner judgments are required to be docketed in such office. The said recognizance from the time the same is executed before such judge shall bind and be a charge upon the lands and tenements, real estate and chattels real of the parties executing such recognizance, whether owned by them jointly or either of them severally, and wherever the same may be situated in this state, until such recognizance shall be fully paid and satisfied or otherwise discharged by due course of law.

Repealing clause.

SEC. 3. This act shall take effect and be in force from and after its publication, and all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

Approved March 31, 1856.

CHAPTER 78.

Published June 24.

An Act to appropriate the income of the University Fund for the year 1856.

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

University fund appropriated.

SECTION 1. The income of the University fund for the year A. D. 1856, is hereby appropriated to the University of Wisconsin, to be drawn from the state treasury in such manner as the board of regents, by their by-laws or resolution, shall direct, reserving however, a sufficient amount thereof to pay any accruing interest that is now or may fall due during the year, on loans to the University from the School or University fund.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 79.

Published July 11.

n Act to appropriate one thousand dollars annually to the State Historical Society.

The people of the State of Wisconsin, represented in lenate and Assembly, do enact as follows:

SECTION 1. There is hereby annually appropriated out f the state treasury, to the State Historical Society, com- nencing with the present fiscal year, the sum of five hun- lred dollars in addition to that amount appropriated by he act approved February twenty first, eighteen hundred nd fifty four, to aid the society in collecting book, maps, harts and papers of every kind, and other materials illus- rative of the history and progress of Wisconsin in partic- ular, and the west in general; to procure from the early ioneers narrations of their exploits, perils and hardy ad- ventures; to secure facts and statements relative to the istory, genius, progress or decay of our Indian tribes; to xhibit faithfully the antiquities and the past and present esources and condition of Wisconsin; also to aid in bind- ng the books, newspapers, pamphlets, documents and nanuscript collections of the society and (and) in defray- ng other necessary incidental expenses: *Provided*, That he executive committee of the society shall keep a correct ccount of the manner of expenditure of the said sum of noney hereby appropriated, as well as that appropriated by the act approved February twenty first, eighteen hun- lred and fifty four, and place the same, together with the vouchers thereof with the governor of the state, in the month of January in each year, and publish the treasurers report, properly audited, in the transactions of the society.

Appropriation to state historical society.

Proviso.

SEC. 2. The further sum of five hundred dollars annu- ally is hereby appropriated, out of the state treasury, as an addition to the salary of the corresponding secretary of the State Historical Society provided in the act approved March 31st, eighteen hundred and fifty five, to commence with the present fiscal year, and be paid in the same manner as the salaries of the state officers.

To corresponding secretary.

SEC. 3. This act shall take effect from and after its passage.

Approved March 31, 1856.

CHAPTER 80.

Published June 25.

An Act to attach the County of Kewaunee to the Fourth Judicial Circuit, and to the County of Manitowoc, for Judicial purposes.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Counties attached for judicial purposes

SECTION 1. The county of Kewaunee is hereby detached from the tenth judicial circuit, and attached to and made a part of the fourth judicial circuit of the state of Wisconsin.

SEC. 2. The said county of Kewaunee is hereby attached to the county of Manitowoc for judicial purposes.

Proceedings commenced.

SEC. 3. No proceedings commenced and pending in any of the courts of Brown county under existing laws, shall be affected by this act; but the same may be proceeded in to consummation and final judgment in the courts where the same are now pending.

When to take effect.

SEC. 4. This act shall take effect from and after the first day of June next and its publication, and the secretary of state shall forthwith transmit a copy of the sume, duly certified, to each of the clerks of the circuit courts for the counties of Brown and Manitowoc.

Approved March 31, 1856.

CHAPTER 81.

Published, in Extra, April 16.

An Act making Clerks of the Circuit Court Clerks of the County Courts for certain purposes.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Concerning clerks of courts

SECTION 1. The clerk of each of the circuit courts in this state, shall be the clerk of the county court, for the

rpose of certifying to copies and transcripts of all the ›ords and files of said county court, to be used in any ıer state, agreeably to the act of congress of May 26, 90; and in making such certificate he shall use the seal said county court, and sign himself "clerk of the county ırt," and shall also have authority in such capacity to thenticate acknowledgements of all instruments taken the judge of said county, and for such services the clerk all receive the fee allowed by law for similar services.

SEC. 2. This act shall be in force from and after its passge.

Approved March 31, 1856.

CHAPTER 82.

Published June 18.

Act to provide for the annual compensation of the State Treasurer, as depository of the Banking Securities.

The people of the State of Wisconsin, represented in nate and Assembly, do enact as follows:

SECTION 1. The state treasurer shall receive a salary of x hundred dollars per annum, for his extra services for sk incurred in guarding and for the safe keeping of the ate, school and university funds, and the banking securis entrusted to his care, to be paid out of the state treasy in the same manner as other state officers are paid. **Additional compensation to state treasurer.**

Approved March 31, 1856.

CHAPTER 83.

Published June 11.

AN Act in relation to the writ of Scire Facias.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Whenever an execution shall not have been ssued within the time allowed by law, after the recovery **Proceedings under writ of scire facias.**

of any judgment, in any court of record within this state the plaintiff, in any such judgment, may sue out a writ of *scire facias* to be issued out of the same court, by which the sheriff shall be commanded to summon the party against whom it issued, to appear before such court, at a certain day, to show if he have anything to say, why such plaintiff ought not to have execution of such judgment and if, after being duly summoned, he do not come at the day, or do come and say nothing why execution ought not to be had, an execution shall thereupon issue according to the force, form and effect of the said recovery.

To revive judgments.

SEC. 2. Writs of *scire facias* shall also be issued in the cases not otherwise provided by law, to revive a judgment against the personal representatives of any deceased defendants, or in favor of the personal representatives of any deceased plaintiff; or where the situation of either party is changed by marriage; or to continue a suit by or against the representatives of either party, who shall have died in the progress thereof. But such writs, against the personal representatives of any party, shall be issued within one year after the cause for issuing the same shall arise.

To revive, &c.

SEC. 3. Writs of *scire facias* may also be issued out of the circuit court, for any county, to revive a judgment recovered in the county court of the same county, in the cases and for the purposes provided in the preceding sections of this act: *Provided*, That writs of *scire facias* to revive any judgment, or recovery docketed before this act takes effect, shall be brought within ten years thereafter; and such writs, when brought to revive any judgment or recovery, docketed after this act takes effect, shall be brought within ten years after the time of docketing thereof; *And provided further*, That nothing in this act contained, shall be construed so as to conflict with any statute of this state now in force in relation to the revival of judgments or suits or proceedings; but all such statutes are continued in force, and proceedings may be had or taken, in pursuance therewith, with like effect as if this act had not been passed.

Proviso.

Proviso.

Writs—how and when issued.

SEC. 4. Writs of *scire facias* may be issued at any time in term time or vacation; shall be tested, signed and sealed as other writs and process issuing out of courts of record; shall describe the judgment, or suit or proceeding to be revived thereby; may be directed to and served by the sheriff of any county in this state, where the person or

persons against whom the same is issued, or any, or either of them, shall reside or may be found; shall be returnable in twenty days after service thereof, on all the persons named therein, if to be found in this state: And it shall be the duty of the sheriff to whom any such writ of *scire facias* may be directed, to endeavor to serve the same, notwithstanding any directions which he may receive to the contrary, from the plaintiff therein, or his attorney.

Serving same.

SEC. 5. Every such writ shall be served by delivering a copy thereof, certified by the officer delivering the same, to the party required to be summoned, or by leaving such copy at his dwelling house with any person of proper age. If issued against a corporation, it shall be served in the same manner provided by law for serving process upon corporations.

Returned.

SEC. 6. In all cases where the writ shall be returned duly served in the manner prescribed by the preceding section, the appearance of the person or corporation so summoned, shall be entered by the clerk as in other cases, and if no plea be filed within twenty days after such service, the plaintiff may enter the default of the person so summoned for want of a plea, and may forthwith, in term time or vacation, render a judgment reviving the said judgment for the amount thereof, according to the form and force of the said recovery.

When parties cannot be found, &c.

SEC. 7. If the sheriff return that any person who was required to be summoned by such writ, cannot be found, and has no place of residence within his county, the court shall, after the filing of the *scire facias*, direct a copy of such writ to be published in some newspaper printed and published in the county where such court shall be held, and in the state paper for six successive weeks, once in each week. And if such person shall not appear and plead to such *scire facias* within ten days after the last publication therof, the plaintiff shall be entitled, upon filing due proof of such publication, to enter appearance and default of such defendant, and judgment shall be rendered upon such default, in like manner as if the writ had been returned served; *Provided*, That in such case, the plaintiff or some one on his behalf, who can testify to the facts, shall make and file an affidavit of the amount then actually due upon such judgment, and judgment shall thereupon be rendered, reviving such judgment for the amount then actually due.

Proviso.

No declaration required.

SEC. 8. No declaration shall be required to be filed upon the *scire facias*; but where executors or administrators are plaintiffs in any such writ, they shall make profert of their letters testamentary or of administration, in the *scire facias*, in the same manner as is now practiced in a declaration. And the defendant shall plead to such writ in the same manner as to a declaration.

Trial and judgment.

SEC. 9. All issues, whether of law or of fact, joined upon any *scire facias*, shall be tried and judgment rendered thereon in the same manner as in personal actions.

SEC. 10. This act shall be published immediately after its passage, and shall be in force from and after such publication.

Approved March 31, 1856.

CHAPTER 84.

Published in Extra April 16.

An Act to provide for the manner of applying for pardons in cases of murder

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Manner of applying for pardons.

SECTION 1. All applications hereafter made to the governor of this state for the pardon of any person who shall have been convicted of the crime of murder, shall be accompanied with a recommendation of the judge who presided at the trial in which said conviction was had, or of the judge in office when the application is made, in the circuit where the trial was had, and shall also be accompanied by a full statement of the facts in the case, and the grounds of the application, which statement shall be verified by affidavit.

Judge to keep minutes, &c.

SEC. 2. It shall be the duty of any judge prisiding at the trial of any person indicted for murder, to keep full minutes of all testimony given upon such trial, and at the close of the trial, such minutes shall be delivered to, and shall be filed by the clerk of the court in which such trial is had; and upon any application for pardon of the person convicted upon such trial, said minutes of testi-

ony, or a certified copy thereof, shall accompany the
plication for pardon.

SEC. 3. No pardon shall be granted unless the warden keeper of the prison where such applicant shall have en confined, shall certify to the governor that the ap- icant has during his confinement conducted himself in peaceful and obedient manner: *Provided*, That this t shall not be so construed as to render it obligatory pon the executive to pardon any convict, although the plication for such pardon shall be made in accordance ith the provisions of this act. Warden's certificate. Proviso.

SEC. 4. This act shall be in force and effect from and ter its passage.

Approved March 31, 1856.

CHAPTER 85.

Published May 14.

An Act to constitute an infant child an heir of Sylvanus S. Burgess.

The people of the State of Wisconsin, represented in enate and Assembly, do enact as follows:

SECTION 1. The female infant now known by the name f Mary Ellen Burgess, and whose parents are unknown, ut supposed to be dead, and who now lives, and from he time she was only a few days old has lived with Syl- anus S. Burgess, of Leroy, Dodge county, in this state, s hereby declared, constituted and made an heir of the aid Sylvanus S. Burgess, the same as though she were he legitimate daughter of the said Sylvanus S. Burgess. Constituted heir.

SEC. 2. This act shall take effect upon being printed by the state printer.

Approved March 31, 1856.

CHAPTER 86.

Published May 14.

An Act to provide for additional terms of the Circuit Court for Milwaukee County.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Additional terms of courts

SECTION 1. In addition to the terms of the circuit court appointed by law to be held in the county of Milwaukee, there shall hereafter be held annually, in and for said county, by the judge of the second judicial circuit, a term of said circuit court, commencing on the second Monday in December, and a term commencing on the second Monday in April, and a grand and petit jury for said terms shall be drawn and summoned in the manner provided by law. Said additional terms shall be for criminal and chancery jurisdiction only.

Term abolished.

SEC. 2. The May term of the circuit court for Milwaukee county is hereby abolished, and there shall hereafter be held in lieu thereof, an annual term of said court, commencing on the third Monday in June.

SEC. 3. This act shall take effect and be in force from and after the fourth day of July next.

Approved March 31, 1856.

CHAPTER 87.

Published May 17.

An Act to pay the Postage of the several State Offices.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Secretary to audit account for postage.

SECTION 1. The secretary of state is hereby authorized to audit the accounts of the postmaster at Madison, for the postage of the executive office, office of the secre-

tary of state, attorney general, state superintendent, bank comptroller, state treasurer, and clerk of the supreme court, for the year 1856, said accounts to be certified by the said postmaster, at Madison, by affidavit.

SEC. 2. There is hereby appropriated to the postmaster at Madison, out of any money in the treasury not otherwise appropriated, a sum sufficient for the payment of the above accounts, to be drawn quarterly, from the treasury, upon the presentation of said accounts properly certified to by their respective offices. **Appropriation**

Approved March 31, 1856.

CHAPTER 88.

Published May 17.

An Act to prevent fraud in the buying and selling of grain and other produce.

The people of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

SECTION 1. If any produce merchant, warehouseman, miller, or storage, forwarding or commission merchant, or any other person or persons whatever, shall wilfully use false weights or measures, in the buying or selling, of any commodity or thing, and thereby shall cheat or defraud the seller or buyer, of any such commodity or thing, he or they shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars. **Punishment for using false weights, &c.**

SEC. 2. Every justice of the peace shall have jurisdiction, concurrent with the circuit court, of all cases mentioned in the preceding section of this act, when the amount of damages occasioned by such cheat or fraud, shall not exceed the value of twenty dollars, in all which cases, the punishment shall be fine, not exceeding one hundred dollars, or by imprisonment in the county jail, not exceeding three months, saving to every person who shall be convicted before the justice, the right to appeal as in other cases. **Justices of the peace to have jurisdiction.**

SEC. 3. This act shall take effect and be in force from and after its publication by the state printer.

Approved March 31, 1856.

CHAPTER 89.

Published in Extra April 16.

An Act to amend chapter thirty of the Revised Statutes.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendment.

SECTION 1. The second section of chapter thirty (30) of the revised statutes is hereby so amended as to read: "It shall not be lawful for any person to sell, give away, or dispose of or keep for such purpose, any intoxicating liquors, at any place upon lands belonging to or occupied under treaty stipulations with the United States by any nation or tribe of Indians within this state, and any Indian superintendent or agent shall have and is hereby given the authority to seize and destroy any liquor kept for such purpose within the said limits, without any other or further warrant therefor.

SEC. 2. This act shall take effect from and after its passage.

Approved March 21, 1856.

CHAPTER 90.

Published in Extra April 16.

An Act to amend [to amend] section twenty-two of chapter sixteen, of the Revised Statutes.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendment.

SECTION 1. Every male inhabitant in each road district, being over the age of twenty-one years, and under the age of fifty years, excepting persons of color, paupers, idiots, and lunatics, shall be assessed to pay a poll tax of one dollar, said tax may be paid to the overseer in cash, or be commuted for in labor, as now provided by law.

SEC. 2. So much of section twenty-two of chapter sixteen, of the revised statutes, as conflicts with the provisions of this act, is hereby repealed. Repealed.

SEC. 3. This act shall take effect and be in force from and after the first (1st) day of April next.

Approved March 31, 1856.

CHAPTER 91.

Published September 27.

An Act to organize the county of Dunn for Judicial purposes.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. From and after the first day of January next, the county of Dunn shall be fully organized for judicial purposes, and shall enjoy all the rights and privileges appertaining to other counties so organized in this state. County organized for judicial purposes.

SEC. 2. Said county of Dunn shall be and hereby is constituted a part of the eighth judicial circuit and two terms of the said court shall be holden annually in said county of Dunn, at the county seat thereof, to wit: on the second Monday of June, and on the second Monday of December in [illegible] County of Dunn part of eighth judicial circuit.

SEC. 3. All writs shall issue and be made returnable as required by law in other counties in this state, and all laws now in force applicable to the summoning and empannelling of jurors, shall be applicable to, and be in force, in said county of Dunn. Writs, &c. returnable.

SEC. 4. The qualified electors of said county, at the general election to be held in said county in November next, shall elect a register of deeds, clerk of the board of supervisors, a county surveyor, a sheriff, district attorney, clerk of the court and coroner, who shall qualify, as required by law, and enter upon the duties of their several offices, on the first day of January next, and hold the same as now provided by law. Election of officers.

SEC. 5. The qualified electors of said county shall, on the first Monday of September next, elect some suitable person as county judge, who shall qualify as now provided County judge.

by law, and enter upon the duties of his office on the first day of January next and hold the said office for the term of two years, and until his successor is elected and qualified.

Returns of election.

SEC. 6. At such elections the votes given for such officers, shall be returned and canvassed in the same manner as votes are returned and canvassed at a general election in other counties in this state.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 92.

Published in Extra April 16.

An Act to amend chapter 79 of the Revised Statutes.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendment.

SECTION 1. In addition to the causes for which a divorce may now be granted, a divorce from the bond of matrimony may in the sound discretion of the court be decreed by the several circuit courts of this state, sitting as a court of chancery, on suit brought in the county where the parties or one of them reside, on application by petition or bill of the aggrieved party, whenever either party shall have become incurably insane, and shall have so remained for the term of seven years continuously:

Proviso.

Provided, That in case of the insanity of the wife, before a divorce shall be granted for such cause, the husband shall give bonds to the board of supervisors in the county in which such wife shall reside, with good and sufficient security to the satisfaction of the court, for the support and maintenance of said insane party during her life.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 93.

Published June 18.

An Act to provide for the payment of clerks in the School Land Office.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The commissioners of the school and university lands of this state are hereby authorized to employ such number of clerks, either permanently or temporarily, as shall be necessary, in order to the correct, prompt and efficient management of the school and university fund of this state, and the secretary of state is hereby required to keep a daily account of all such clerks so necessarily employed in said commissioners office; *Provided*, That before any clerk who may be appointed by the said commissioners shall enter upon the discharge of the duties of his clerkship, he shall take and subscribe the following oath, to wit: "I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the state of Wisconsin, that I will not be engaged either directly or indirectly in the purchase for my own benefit of any school or university lands of the state of Wisconsin, so long as I remain a clerk in the school land bureau thereof: and that I will faithfully discharge to the best of my ability the duties of clerk in said bureau—so help me God" —which said oath shall be filed in the office of the secretary of state. **To employ and pay clerks in school land office.** **Oath.**

SEC. 2. The clerks hereby authorized to be employed shall be employed either by the day, week, month, quarter, or year, as the said commissioners shall deem advisable, at a price to be agreed upon by them. The accounts of such clerks for services shall be audited by the secretary of state, and paid out of the income of the school and university funds, *pro rata; Provided*, That no clerk shall be paid for any time when not actually and necessarily employed in the duties of said office. **Compensation**

SEC. 3. There is hereby appropriated out of the income of the school and university funds of this state, a sufficient sum to cover all expenses incurred under the provisions of this act during the year 1856, and to pay the clerks hired and employed in said department in said year prior **Appropriation for same.**

to the passage of this act. The accounts of such clerk for services rendered in said year to be audited by the secretary of state.

Repealed.

SEC. 4. So much of chapter 70 of the general laws of 1854, entitled "An act to provide for defraying the contingent expenses of the state for the present year, and to amend chapter 24 of the revised statutes, entitled of school and university lands" as conflicts with the provisions of this act is hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 94.

Published April 3.

An Act to set apart and incorporate the county of Burnette.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

County of Burnette.

SECTION 1. That all that section of country lying and being in the county of Polk, in this state, embraced in townships thirty eight (38), thirty nine (39) and forty (40), of ranges twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), eighteen (18), nineteen (19) and twenty (20), together with so much of the county of Douglas as is embraced in townships forty one (41), forty two (42), and forty three (43), of ranges twelve (12), thirteen (13), fourteen (14), fifteen (15) and sixteen (16), shall be and the same hereby is set apart, and shall constitute a county, with all the rights and privileges heretofore granted to other counties; and shall hereafter be known in law and otherwise by the name and style of the county of Burnette, and shall hereafter be and hereby is attached to the county of Polk for judicial purposes; and for the time being, the same shall constitute two township for township purposes, and shall be known as Yellow River township, and under such name shall be entitled to all the rights and privileges heretofore granted by law to other townships. And the first election in said township

Attached to Polk county for judicial purposes.

hall be held at the house of Thornton Bishop, in said own.

SEC. 2. The seat of justice of said county of Burnette erein created, shall be and hereby is located in the north ast quarter of section twenty seven (27), township forty ne (41), of range sixteen (16), at the village hereafter to e known as the village of Gordon. County seat.

SEC. 3. This act shall take effect from and after its passage.

Approved March 31, 1856.

CHAPTER 95.

Published, in Extra, April 16.

n Act to authorise county judges to perform and discharge the trust specified in an act of Congress, approved May 23d, 1844, viz.: "An act for the relief of the citizens of towns upon the lands of the United States under certain circumstances."

Whereas, Under the above named act of Congress any ortion of the surveyed public lands, which had been and hould be settled or occupied as a town site, (not subject o entry under the pre-emption laws of the United States) uthority was given to county judges (or to the corporate uthorities, if the town or site was incorporated) of the espective counties in which such lands were situated, to nter the same, in trust, for the use and benefit of the ocupants or proprietors thereof, to be disposed of under uch regulations as the legislative authority of the state n which such lands were situated should prescribe; therefore, Relative to public lands.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Whenever any portion of the surveyed public lands shall have been claimed or occupied as a town ite, and regularly laid off into town lots, and the plat hereof recorded pursuant to law by the occupants or proprietors thereof, and the entry made under the aforesaid ct of Congress, the said trustee or trustees shall have ower and he or they are hereby authorized and instructed Trustees to convey title in certain cases.

to convey to the said occupants or proprietors, their assigns or legal representatives, a full and just title to each to their respective interests in such town site, which conveyance shall be binding in law, and shall be favorably construed in all courts and places in this state.

To cause survey to be made.

SEC. 2. In case no survey or record of the plat of such town site shall have been made, prior to such entry, then it shall be lawful, and it is hereby made the duty of said trustee or trustees to cause such site to be surveyed and platted, (as near as may be according to the respective possessions, rights and interests of the occupants or proprietors thereon, allowing all necessary streets and alleys) and the plat thereof recorded pursuant to law, the expense of such survey and plat first to be paid, rateably by said occupants or proprietors, according to each of their respective interests, and the conveyance to be made pursuant to the provisions of the first section of this act.

Conflicting claims—county judges duty

SEC. 3. In case there shall be conflicting claims to any lots or parts of lots so surveyed and platted as provided in section 2, it shall be lawful for the judge of the county and he is hereby required on application for that purpose, by any claimant to any lot or part of any town lot so by him surveyed or platted, to proceed, hear and determine the right and interest of the said claimants in said lot or lots or parts of lot, according to equity and justice, and shall award make, according to the respective interests of the parties, and the award of said judge shall be final and conclusive. The said judge before he shall proceed to hear and determine any such matter, shall give due notice to the said parties, and allow them time to have a fair hearing upon their respective claims.

Public act.

SEC. 4. This act is hereby declared to be a public act and shall be favorably construed in all courts and places.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 96.

Published July 9.

An Act to organize the county of Clark for Judicial purposes.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Clark county organized for judicial purposes.

SECTION 1. From and after the first day of January next, the county of Clark shall be fully organized for judicial purposes, and shall enjoy all the rights and privileges appertaining to other counties so organized in this state.

Part of sixth circuit.

SEC. 2. Said county of Clark shall be and hereby is constituted a part of the sixth judicial circuit, and two terms of the said court shall be holden annually, in said county of Clark, at the county seat thereof, to wit: on the fourth Monday of June and fourth Monday of December, in each year.

Writs, &c. returnable.

SEC. 3. All writs shall issue and be made returnable as required by law, in other counties in this state, and all laws now in force applicable to the summoning and empannelling of jurors shall be applicable to and be in force, in said county of Clark.

Election of officers.

SEC. 4. The qualified electors of said county, at the general election to be held in said county, in November next, shall elect a register of deeds, clerk of the board of supervisors, a county surveyor, a county treasurer, a sheriff, district attorney, clerk of the court and coroner, who shall qualify as required by law, and enter upon the duties of their several offices, on the first day of January next, and hold the same as now provided by law.

County judge.

SEC. 5. The qualified electors of said county, shall, on the first Monday of September next, elect some suitable person as county judge, who shall qualify as now provided by law, and enter upon the duties of his office on the first day of January next, and [hold] the said office for the term of two years, and until his successor is elected and qualified. At such election the votes given for such officers shall be returned and canvassed in the same manner as votes are returned and canvassed at a general election in the organized counties in this state.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 97.

Published May 17.

An Act to provide for the payment for Supreme Court reports for the year one thousand eight hundred and fifty four.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Secretary of state to audit an account.

SECTION 1. That the secretary of state is hereby authorized and required to audit the account of the reporter, for two hundred copies of the reports of the supreme court for the year eighteen hundred and fifty four, at the publisher's prices.

Payment.

SEC. 2. That the sum so audited and allowed shall be paid out of any money in the treasury not otherwise appropriated.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 98.

Published in Extra April 16.

An Act to amend section ninety-three, chapter twelve of the Revised Statutes, and in compensation of Town Officers.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Compensation of town officers.

SECTION 1. Supervisors, assessors, clerks of the polls and superintendents of schools, shall be entitled to a compensation for each day actually and necessarily devoted by them to the service of the town, and in the discharge

ıy of the duties of their respective offices required of em by law, of one dollar and fifty cents for each day, ıd at the same rate for parts of a day; and no town offi- ır shall be entitled to pay for acting in more than one ficial capacity of office at the same time, unless the wn shall have fixed a different compensation at the annu- town meeting.

SEC. 2. So much of section ninety-three, chapter twelve 'the revised statutes, as conflicts with the provisions of ıis act, is hereby repealed. **Repealed.**

SEC. 3. This act shall take effect and be in force from ıd after the first day of April next.

Approved March 31, 1856.

CHAPTER 99.

Published July 11.

An Act to authorize the Secretary of State to audit certain accounts.

The people of the State of Wisconsin, represented in 'enate and Assembly, do enact as follows:

SECTION 1. The secretary of state is hereby authorized nd empowered to audit the account of Atwood & Rublee nd Calkins & Proudfit, for publishing the report of the ıroceedings of the supreme court, in the gubernatorial ase, ordered by the senate and assembly for their use, n pamphlet form, provided the publishers shall furnish he same at a price not exceeding the rate of ten cents ıer copy for every thirty-two pages of size and matter ıorresponding with the annual reports as published by the ıtate printers: and upon the completion of said work lraw his warrant on the state treasurer for the amount ıo audited and allowed. **Secretary of state to audit certain accounts.**

SEC. 2. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, a suffi- cient amount to pay the said warrants of the secretary of state as contemplated in the first and second sections of this act. **Appropriation**

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 100.

Published May 17.

An Act to provide for defraying the expenses of the Investigating Committee.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Expense of investigating committee—secretary to audit.

SECTION 1. The committee of investigation are hereby authorized to certify to the secretary of state, the accounts for such expenses as they may incur for clerk hire and attendance of witnesses, during the recess of the legislature, and thereupon it shall be the duty of the secretary of state to audit such accounts, and order the same to be paid out of the state treasury: *Provided*, The compensation of witnesses shall be two dollars per day, and six cents for each mile traveled.

Appropriation

SEC. 2. There is hereby appropriated, to be paid out of the state treasury, a sum of money sufficient to pay the accounts audited under the provisions of the first section of this act. This act to take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 101.

Published, in Extra, April 16.

An Act to amend chapter eighty-four of the Revised Statutes of Wisconsin, entitled "of Courts of Chancery and proceedings therein."

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendment.

SECTION 1. Section thirty-six of chapter eighty-four of the revised statutes is amended hereby by adding to said section the following proviso, to wit: *Provided*, That this section, thirty six, shall not be so construed as in any way

to affect the validity of any sale made pursuant to any decree of the court before the filing of the petition or bill by such absent defendant, his heirs, devisees, executors, administrators or assigns.

SEC. 2. This act shall take effect from and after its passage.

Approved March 31, 1856.

CHAPTER 102.

Published June 21.

An Act in relation to the First Division of the Wisconsin Militia.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The counties of Dane and Washington, in this state, are hereby attached to the first division of the Wisconsin militia. **Militia.**

SEC. 2. The appointments heretofore made in the third division, shall not be affected by the provisions of this act. **Appointments**

SEC. 3. This act shall be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 103.

Published June 24.

An Act to defray the Expenses of locating University Lands.

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

SECTION 1. There is hereby appropriated to Simeon Mills the sum of four hundred and fifty-three dollars, to be paid by the state treasurer, out of the income of the **To pay expenses of locating Saline lands.**

university fund, in full for all services of himself and assistants, and all expenses incurred in selecting and locating saline and university lands up to the present time.

Commissioners to add a certain amount to defray said expenses.

SEC. 2. Whenever the whole or any part of the seventy-two sections of land granted in lieu of saline lands to the state in aid of the university, shall be sold, the commissioners for the sale of the same, shall add two and a half cents per acre to the price for which any of said lands shall be sold, which shall be collected at the time of making such sale, and shall be paid into the state treasury, to refund to said income the amount paid for selecting and locating the same.

SEC. 3. This act shall be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 104.

Published June 25.

An Act to provide for the sale of certain lands in the county of Lafayette for the taxes for the years eighteen hundred and fifty, eighteen hundred and fifty-one, eighteen hundred and fifty-two, and eighteen hundred and fifty-four.

To rectify errors in delinlist in Lafayette county.

Whereas, Such errors have intervened in transcribing the descriptive lists of land returned as delinquent, for the non-payment of taxes in Lafayette county, for the years eighteen hundred and fifty, fifty-one and fifty-two, that the sales made by the treasurer of said county are esteemed void. And, whereas, the town treasurer of the town of Centre was enjoined from collecting the taxes on certain lands in said town for the year eighteen hundred and fifty-four: and, whereas, said injunction was not dissolved until it was too late to return said lands as delinquent to the county treasurer in time to advertise and sell according to law; therefore,

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Treasurer to sell for certain taxes.

SECTION 1. That the said treasurer of Lafayette county is hereby authorized and required to advertise and sell said lands returned as delinquent, for said years eighteen

hundred and fifty, fifty-one and fifty-two, on which the taxes have not been paid since the return of the delinquent list or lists, the said sale to be made on the first Monday of July next. The said advertisement and sale to be made and conducted in all respects according to the law now in force, on the subject of advertising and selling lands for unpaid taxes by the county treasurers of the several counties of this state.

Treasurer of town of Centre to make return of delinquent list.

SEC. 2. That the town treasurer of the town of Centre in said county of Lafayette, shall, if the taxes have not already been paid, return to the county treasurer of said county, a correct delinquent list of all lands in said town, assessed for taxes in the year eighteen hundred and fifty-four, whereon the said town treasurer had been enjoined from collecting taxes in said year. And upon the receipt of said delinquent list by said county treasurer, he shall advertise and sell the same for the unpaid taxes thereon, at the same time provided in the first section of this act, for the advertising and selling the lands referred to in said first section.

SEC. 3. This act shall take effect and be force from and after its passage and publication.

Approved March 31, 1856.

CHAPTER 105.

Published June 20.

An Act to change the name of Ellen Olivia Hawes, to Ella Hoffmam, and to constitute her the adopted daughter and heir-at-law of Gilbert Hoffman.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed

SECTION 1. The name of Ellen Olivia Hawes, of Whitewater, in the county of Walworth, is hereby changed to Ella Hoffman, and by the last mentioned name she shall hereafter be known and recognized.

Heir-at-law.

SEC. 2. The said Ella Hoffman is hereby constituted the adopted daughter and heir at-law of Gilbert Hoffman and Esther Hoffman his wife, of the town and county

aforesaid, and as such is entitled to all the rights and privileges, and subject to all the duties which pertain between natural parents and child.

When to take effect.

SEC. 3. This act shall take effect and be in force whenever the said Gilbert Hoffman, with Hannah E. Hawes, the natural mother of the said Ellen Olivia, shall assent thereto in writing under their hands and seals, and record the same in the office of the register of deeds in the said county of Walworth.

Approved March 31, 1856.

CHAPTER 106.

Published, in Extra, April 16.

An Act to authorize county judges to amend and perfect their records.

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

County judges to amend records.

SECTION 1. The judges of the county courts of the several counties in this state, are hereby authorized and empowered to amend and perfect the records of proceedings in any matter transacted in the county court, or in the probate court, before the organization of county courts, in such manner as may be necessary to make the records of proceedings in such courts conformable to the truth in any such matter.

Applications for amendments—how made, &c.

SEC. 2. Upon application in writing, verified by oath, by any person interested, praying an amendment or perfecting of the records of any such court, in any matters transacted in such court, and specifying the amendments sought to be made, it shall be the duty of the judge of the county court to cause notice of such application to be given to all persons concerned, of the time and place of a hearing on such application, by publication of notice in some weekly newspaper published in said county, if one be published therein, if not by publication in some weekly newspaper, published in some adjoining county for three weeks successively prior to a hearing on such application.

SEC. 3. Upon due proof of the publication of such notice the court shall proceed to hear the proofs and allegations of said applicant and of all persons opposing the granting such application. On the hearing of such application the court shall so amend and perfect the records of said court as to make the same conform to the facts of the proceedings had in such court. Court to hear proofs, &c.

SEC. 4. The records and proceedings had and made by such court upon the hearing of such application shall be as valid and in all courts binding as if said records and proceedings had been made originally by the court when they ought to have been made. Proceedings valid.

SEC. 5. Every county judge in this state shall keep his office, and the books, papers and records of the office of county judge at the county seat of the county in which he holds his office, which office, and the books, papers and records thereof shall at all reasonable times be open to access and inspection by any person having any business therewith. Office of co. judge, &c.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved March 31, 1856.

CHAPTER 107.

Published September 24.

An Act appropriating a certain sum of money to persons therein named.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is hereby appropriated to William P. Dewey, assistant clerk of the Assembly, and L. C. McKenney, assistant clerk of the Senate, the sum of one hundred dollars each, for extra services as such clerks, during the present session of the legislature; also, to E. Stansbury, transcribing clerk of the Senate, W. E. Carter, enrolling clerk of the Senate, G. W. Sproat, transcribing clerk of the Assembly and P. Tolland, enrolling clerk of the Assembly, the sum of one hundred dollars each, in Appropriation to officers of senate and assembly.

full compensation for services rendered during the present session of the legislature.

SEC. 2. This act shall take effect from and after its passage.

SEC. 3. Section one, of chapter 110 of the general laws of 1853, is hereby repealed.

Approved September 17, 1856.

CHAPTER 108.

Published September 25.

An Act to amend an act entitled an act to divide the county of Portage and erect the county of Wood, approved March 29, 1856.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendment to act dividing county of Portage.

SECTION 1. The first section of an act entitled an act to divide the county of Portage and erect the county of Wood, approved March 29, 1856, is hereby so amended as to include the whole of township 23, of range 6, in the county of Wood.

Same.

SEC. 2. The ninth section of said act is hereby so amended as to include township twenty-four and twenty-five, of range six, in the county of Portage.

Assessments.

SEC. 3. The assessment of property and the returns thereof shall be made in the same manner and at the same time as is now provided for such assessment and returns in the counties of Marathon and Portage.

County seat.

SEC. 4. The county seat of the county of Wood, shall be established on lots 2 and 3, block 31, in Wood's addition to Grand Rapids; *Provided*, That the owner of said lots shall give the said county of Wood a good and sufficient deed of said lots, for county purposes.

First election.

SEC. 5. The sheriff of the county of Portage is hereby required to give the legal notice of the first election, to be held in the said county of Wood, and the returns thereof shall be made to the town clerk of the town of Grand Rapids, who shall perform the same duties, and have the same power in canavssing such votes as if he

was clerk of the county board of supervisors of said county.

SEC. 6. The county of Wood shall have a claim against the county of Portage for her *pro rata* of the costs of the public buildings and property of said county of Portage, to be ascertained and determined by the commissioners appointed in the act of which this is amendatory. **Public buildings.**

SEC. 7. All records of the county of Portage relating to persons or property in the county of Wood, shall be free of access, and shall be free of charge to the proper officers of Wood county to transcribe. **Records.**

SEC. 8. The town board of supervisors of the town of Grand Rapids, in the said county of Wood, being the only town in said county, are hereby constituted and declared, and shall be the county board of supervisors of said Wood county, until a county board shall be elected and qualified as now provided by the revised statutes, and the town clerk of said town is also hereby constituted and declared, and shall be the clerk of the county board of supervisors of said Wood county, until such clerk of the said county board shall be elected and qualified as now provided by the revised statutes. **Supervisors.**

SEC. 9. This act shall take effect from and after its approval and publication.

Approved September 19, 1856.

CHAPTER 109.

Published October 3.

An Act to apportion and district anew the Members of the Senate and Assembly of the State of Wisconsin.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Until there shall be a new apportionment, the senators and members of the assembly shall be apportioned among the several districts of the state as is hereinafter mentioned, and each district shall be entitled to **Apportionment.**

elect one senator or member of assembly, as the case may be.

Senate districts.

1st Senate District—The county of Sheboygan.

2d Senate District—The counties of Brown, Outagamie, Door, Kewaunee, Oconto and Shawanaw.

3d Senate District—The county of Ozaukee.

4th Senate District—The county of Washington.

5th Senate District—The First, Second, Sixth, Seventh Wards of the city of Milwaukee, and the towns of Milwaukee and Granville, in the county of Milwaukee.

6th Senate District—The Third, Fourth and Fifth wards of the city of Milwaukee, and the towns of Wauwatosa, Greenfield, Lake, Oak Creek and Franklin, in the county of Milwaukee.

7th Senate District—The county of Racine.

8th Senate District—The county of Kenosha.

9th Senate District—The counties of Sauk, Adams and Juneau.

10th Senate District—The county of Waukesha.

11th Senate District—The towns of Windsor, Bristol, York, Burke, Sun Prairie, Medina, Blooming Grove, Cottage Grove, Deerfield, Verona, Fitchburg, Dunn, Pleasant, Spring, Christiana, Montrose, Oregon, Rutland, Dunkirk and Albion, in the county of Dane.

12th Senate District—The county of Walworth.

13th Senate District—The county of La Fayette.

14th Senate District—The towns of Portland, Shields, Emmet, Lebanon, Ashippun, Waterloo, Milford, Watertown, Ixonia and the city of Watertown in the county of Jefferson.

15th Senate District—The counties of Iowa and Richland.

16th Senate District—The county of Grant.

17th Senate District—The towns of Janesville, Rock, Fulton, Porter, Centre, Plymouth, Newark, Avon, Spring Valley, Magnolia, Union and the city of Janesville, in the county of Rock.

18th Senate District—The towns of Beloit, Turtle, Clinton, Bradford, La Prairie, Harmony, Johnstown, Lima, Milton, and the city of Beloit, in the county of Rock.

19th Senate District—The counties of Manitowoc and Calumet.

20th Senate District—The county of Fond du Lac.

21st Senate District—The county of Winnebago.

22d Senate District—The county of Dodge.

23d Senate District—The towns of Lake Mills, Aztalan, Farmington, Concord, Oakland, Jefferson, Hebron, Sullivan, Koshkonong, Cold Spring and Palmyra, in the county of Jefferson.

24th Senate District—The county of Green.

25th Senate District—The county of Columbia.

26th Senate District—The towns of Roxbury, Dane, Vienna, Black Earth, Berry, Springfield, Westport, Vermont, Cross Plains, Middleton, Madison, Blue Mounds, Springdale, Perry, Primrose and the city of Madison, in the county of Dane.

27th Senate District—The counties of Portage, Wood, Marathon, Waupacca and Waushara.

28th Senate District—The counties of Douglas, La Pointe, Polk, Chippewa, St. Croix, Pierce, Dunn, Burnett and Clark.

29th Senate District—The county of Marquette.

30th Senate District—The counties of Crawford, Buffalo, Trempeleau, Bad Ax, Monroe, La Crosse and Jackson

ASSEMBLY DISTRICTS.

County of Kenosha.

Assembly districts—Kenosha co.

1. The city of Kenosha and the towns of Somers and Pleasant Prairie, in the county of Kenosha, shall constitute an assembly district.

2. The towns of Bristol, Paris, Brighton, Salem and Wheatland, in the county of Kenosha, shall constitute an assembly district.

County of Racine.

Racine.

1. The city of Racine shall constitute an assembly district.

2. The towns of Racine, Caledonia and Mount Pleasant, shall constitute an assembly district.

3. The towns of Yorkville, Dover, Raymond and Norway, in the county of Racine, shall constitute an assembly district.

4. The towns of Burlington, Rochester and Waterford, in the county of Racine, shall constitute an assembly district.

County of Walworth.

Walworth.

1. The towns of Bloomfield, Linn, Geneva and Hudson, in the county of Walworth, shall constitute an assembly district.

2. The towns of Walworth, Sharon, Darien, Delavan, in Walworth county, shall constitute an assembly district.

3. The towns of Sugar Creek, Richmond, Whitewater, and LaGrange, in the county of Walworth, shall constitute an assembly district.

4 The towns of Elkhorn, LaFayette, Spring Prairie, Troy, and E. Troy, in the county of Walworth, shall constitute an assembly district.

County of Rock.

Rock. 1. The towns of Beloit, Turtle, Clinton, and the city of Beloit, in the county of Rock, shall constitute an assembly district.

2. The town of Milton, Harmony, Lima, Johnstown, Bradford and La Prairie, in the county of Rock, shall constitute an assembly district.

3. The city of Janesville shall constitute an assembly district.

4. The towns of Fulton, Porter, Union, Centre and Janesville, shall constitute an assembly district.

5. The towns of Rock, Magnolia, Spring Valley, Plymouth, Avon and Newark, shall constitute an assembly district.

County of Green.

Green. 1. The towns of Brooklyn, Albany, Mount Pleasant, Exeter, New Glarus, Washington, Adams and York, shall constitute an assembly district.

2. The towns of Jordan, Monroe, Sylvester, Decatur, Spring Grove, Jefferson, Clarno and Cadiz, shall constitute an assembly district.

County of La Fayette.

La Fayette. 1. The towns of Benton, Elk Grove, Belmont, Kendall and Centre, shall constitute an assembly district.

2. The towns of Argyle, Wiota, Wayne, Gratiot, Fayette and Willow Springs, shall constitute an assembly district.

3. The towns of New Diggings, Shullsburgh, White Oak Springs and Monticello, shall constitute an assembly district.

County of Iowa.

Iowa. 1. The towns of Highland, Dodgeville, Ridgway, Arena, Wyoming, Pulaski and Clyde, in the county of Iowa, shall constitute an assembly district.

2. The towns of Mineral Point, Mifflin, Linden and Warwick, in the county of Iowa, shall constitute an assembly district.

County of Richland.

Richland. 1. The county of Richland shall constitute an Assembly District.

County of Dane.

1. The towns of Albion, Dunkirk, Rutland, Christiana and Pleasant Spring, in the county of Dane, shall constitute an assembly district. Dane.

2. The towns of Deerfield, Cottage Grove, Medina, Sun Prairie, York, Windsor, Burke and Bristol, in the county of Dane, shall constitute an assembly district.

3. The towns of Blooming Grove, Dunn, Fitchburg, Oregon, Montrose and Verona, in the county of Dane, shall constitute an assembly district.

4. The towns of Perry, Springdale, Blue Mounds, Cross Plains, Vermont, Berry, [Primrose] Black Earth and Roxbury, in the county of Dane, shall constitute an assembly district.

5. The towns of Dane, Vienna, Westport, Springfield, Middleton, Madison and the first ward of the city of Madison, in the county of Dane, shall constitute an assembly district.

6. The second, third and fourth wards of the city of Madison, in the county of Dane, shall constitute an assembly district.

County of Waukesha.

1. The towns of Oconomowoc, Summit and Delafield, in the county of Waukesha, shall constitute an assembly district. Waukesha.

2. The towns of Merton, Lisbon and Menominee, in the county of Waukesha, shall constitute an assembly district.

3. The towns of Ottawa, Eagle, Genessee and Mukwanago, in the the county of Waukesha, shall constitute an assembly district.

4. The towns of Pewaukee, Brookfield and New Berlin, in the county of Waukesha, shall constitute an assembly district.

5. The towns of Waukesha, Vernon and Muskego, in the county of Waukesha, shall constitute an assembly district.

County of Milwaukee.

1. The first and seventh wards of the city of Milwaukee shall constitute an assembly district. Milwaukee

2. The second ward of the city of Milwaukee shall constitute an assembly district.

3. The third ward of the city of Milwaukee shall constitute an assembly district.

4. The fourth ward of the city of Milwaukee shall constitute an assembly district.

5. The fifth ward of the city of Milwaukee shall constitute an assembly district.

6. The sixth ward of the city of Milwaukee shall constitute an assembly district.

7. The towns of Milwaukee and Granville, in the county of Milwaukee, shall constitute an assembly district.

8. The towns of Wauwatosa and Greenfield, in the county of Milwaukee, shall constitute an assembly district.

9. The towns of Lake, Oak Creek and Franklin, in the county of Milwaukee, shall constitute an assembly district.

County of Ozaukee.

akee. 1. The towns of Sackville, Belgium, Port Washington, and Fredonia, in the county of Ozaukee, shall constitute an assembly district.

2. The towns of Grafton, Cedarburg and Mequon, in the county of Ozaukee, shall constitute an assembly district.

County of Washington.

hington. 1. The towns of Wayne, Hartford, Addison and Erin, shall constitute an assembly district.

2. The towns of Kewaskum, Barton, West Bend, Polk, and Richfield, shall constitute an assembly district.

3. The towns of Farmington, Trenton, Jackson and Germantown, shall constitute an assembly district.

County of St. Croix, &c.

Croix, &c. The counties of La Pointe, Douglass, Burnett, Polk and St. Croix, shall constitute an assembly district.

County of Pierce, &c.

ce, &c. The counties of Pierce, Dunn, Chippewa and Clark, shall constitute an assembly district.

County of Fond du Lac.

d du Lac. 1. The towns of Alto, Metomen, Ceresco and Rosendale, in the county of Fond du Lac, shall constitute an assembly district.

2. The towns of Waupun, Springvale, Oakfield, Lamartine and Eldorado, in the county of Fond du Lac, shall constitute an assemby district.

3. The city of Fond du Lac and the towns of Fond du Lac and Friendship, in the county of Fond du Lac, shall constitute an assembly district.

4. The towns of Calumet, Marshfield, Taycheedah, Empire and Forest, in the county of Fond du Lac, shall constitute an assembly district.

5. The towns of Byron, Eden, Auburn, Ashford and Oceola, in the county of Fond du Lac, shall constitute an assembly district.

County of Winnebago.

1. The towns of Vinland, Oshkosh, Algoma and the city of Oshkosh, in the county of Winnebago, shall constitute an assembly district. Winnebag

2. The towns of Neenah, Menasha, Clayton, Poyagan, Winchester, Winneconne and Orihula, in the county of Winnebago, shall constitute an assembly district.

3. The towns of Black Wolf, Utica, Nepeuskum, Rushford, Omro and Nekimi, in the county of Winnebago, shall constitute an assembly district.

County of Manitowoc.

1. The towns of Two Rivers, Mishicott, and Kossuth, the village of Manitowoc and the town of Manitowoc, in the county of Manitowoc, shall constitute an assembly district. Manitowo

2. The towns of Manitowoc Rapids, Maple Grove, Franklin, Eaton, Newton, Meeme, Abel and Centerville, in the county of Manitowoc, shall constitute an assembly district.

County of Calumet.

1. The county of Calumet shall constitute an assembly district. Calumet.

County of Grant.

1. The towns of Hazel Green, Jamestown and Smeltzer, in the county of Grant, shall constitute an assembly district. Grant.

2. The towns of Potosi, Paris and Harrison, in the county of Grant, shall constitute an assembly district.

3. The towns of Platteville, Lima, Clifton, Muscado and Wingville, in the county of Grant, shall constitute an assembly district.

4. The towns of Fennimore, Marion, Ellenboro, Liberty and Lancaster, in the county of Grant, shall constitute an assembly district.

5. The towns of Waterloo, Beetown, Patch Grove, Wyalusing, Millville, Little Grant and Cassville, in the county of Grant, shall constitute an assembly district.

County of Sheboygan.

1. The towns of Moselle, Sheboygan, Wilson and city of Sheboygan, in the county of Sheboygan, shall constitute an assembly district. Sheboygan

2. The towns of Herman, Rhine, Russell, Greenbush,

Plymouth and Sheboygan Falls, in the county of Sheboygan, shall constitute an assembly district.

3. The towns of Lima, Lindon, Mitchell, Scott, Abbott, and Holland, in the county of Sheboygan, shall constitute an assembly district.

County of Crawford, &c.

Crawford, &c. 1. The counties of Crawford and Bad Ax shall constitute an assembly district.

County of La Crosse, &c.

La Crosse, &c. 1. The counties of La Crosse and Monroe shall constitute an assembly district.

County of Dodge.

Dodge. 1. The towns of Williamstown, Hubbard and Herman, shall constitute an assembly district.

2. Towns of Leroy, Lomira and Theresa, shall constitute an assembly district.

3. The towns of Rubicon, Hustisford and Oak Grove, shall constitute an assembly district.

4. The towns of Chester, Trenton and Fox Lake, shall constitute an assembly district.

5. The towns of Burnett, Beaver Dam, Westford, and the city of Beaver Dam, shall constitute and assembly district.

6. The towns of Calamus, Elba, Lowell and Clyman, shall constitute an assembly district.

County of Jefferson.

Jefferson. 1. The towns of Palmyra, Sullivan, Concord, Farmington, Hebron and Cold Spring, in the county of Jefferson, shall constitute an assembly district.

2. The towns of Koshkonong, Oakland, Lake Mills, Aztalan and Jefferson, in the county of Jefferson, shall constitute an assembly district.

3. The city of Watertown, in the county of Jefferson, shall constitute an assembly district.

4. The towns of Ashippun, Lebanon, Ixonia and Watertown, in the county of Jefferson, shall constitute an assembly district.

5. The towns of Emmett, Shields, Portland, Waterloo and Milford, in the county of Jefferson, shall constitute an assembly district.

County of Columbia.

Columbia. 1. The towns of Dekorah, West Point, Newport, Lewiston, Portage City, Caledonia, Lodi and Pacific, in the county of Columbia, shall constitute an assembly district.

2. The towns of Arlington, Columbus, Fountain Prairie, Hampden, Leeds, Lowville and Otsego, in the county of Columbia, shall constitute an assembly district.

3. The towns of Fort Winnebago, Courtland, Marcellon Randolph, Scott, Wyocena and Springvale, in the county of Columbia, shall constitute an assembly district.

County of Adams, &c.

The counties of Adams and Juneau shall constitute an assembly district. Adams, &c.

County of Sauk.

1. The towns of Prairie du Sac, Kingston, Merimac, Honey Creek, Franklin, Spring Green, Westfield and Washington, shall constitute an assembly district. Sauk.

2. The towns of Greenfield, Fairfield, Baraboo, New Buffalo, Delona, Winfield, Manston, Reedsburg and Freedom, shall constitute an assembly district.

County of Brown, &c.

The county of Brown shall constitute an assembly district. Brown, &c.

The county of Outagamie shall constitute an assembly district.

The counties of Dorr, Kewaunee, Oconto and Shawano shall constitute an assembly district.

The county of Waupacca shall constitute an assembly district.

The county of Waushara shall constitute an assembly district.

County of Marquette.

1. The towns of Brooklin, Berlin, St. Marie, Princeton, Hardin, Dayton, Mackford, Seneca and Green Lake, in the county of Marquette, shall constitute an assembly district. Marquette.

2. The towns of Kingston, Marquette, Mecan, Neshkoro, Crystal Lake, Shields, Montello, Buffalo, Packwaukee, Sharon, Newton, Westfield, Oxford and Moundville, in the county of Marquette, shall constitute an assembly district.

County of Portage, &c.

1. The counties of Portage, Marathon and Wood, shall constitute an assembly district. Portage, &c.

County of Jackson, &c.

1. The counties of Jackson, Buffalo and Trempeleau, shall constitute an assembly district. Jackson, &c.

Election.

SECTION 2. At the general election in November, 1856, there shall be elected in the odd numbered senatorial districts above described, a senator for each district, whose term of office shall expire in two years after the commencement of such term, and also at the same time shall be elected in the following even numbered districts, namely: 26th, 28th and 30th, a senator for each district, whose term of office shall expire in one year after the commencement of such term of office.

Secretary of state to give notice of election, &c.

SEC. 3. The secretary of state shall immediately after the passage of this act give notice of the election of the several officers to be elected at the next general election in the manner prescribed by charter six (6) of the revised statutes entitled "of elections other than for town officers," and such notice so given shall be taken and deemed a compliance with the requirements of said chapter six of said revised statutes, for all the purposes of the election of officers required to be elected at the next general election under this act.

SEC. 4. This act shall be published immediately after its passage, and take effect from and after its publication.

Approved September 30, 1856.

CHAPTER 110.

Published Oct. 15.

An Act to amend chapter No. 74 of the General Laws of 1856, entitled "An Act for the promotion and encouragement of Agriculture."

The people of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

Amendment to chap. 74 General Laws 1856.

SECTION 1. Chapter 74 of the general laws of 1856, entitled "an act for the promotion and encouragement of agriculture," is hereby amended by striking out from section six the words "treasurer thereof," and inserting in place thereof the words "secretary of state."

SEC. 2. Said chapter is further so amended as to include the following as the eleventh section, and altering the succeeding section to number twelve.

"There is hereby appropriated annually, out of any money in the treasury, not otherwise appropriated, the sum of one hundred dollars to each county society, which shall be organized under the provisions of this [act.]"

SEC. 3. This act shall take effect from and after its passage.

Approved Oct. 2, 1856.

CHAPTER 111.

Published October 7.

An Act concerning Suits in Equity and Actions at Law.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. In cases when the subject of any suit in equity or action, or proceeding at law, shall be the title or any right or interest in, to, of or concerning land, such suit, action or proceeding may be commenced, and proceeded with to final judgment or decree, subject to existing laws in regard to change of venue, in the county where such land may be situate, and in case such land shall lie in more than one county, then in any county wherein is situate any of such land, any law to the contrary notwithstanding, and for the purpose of carrying out the provisions of this act, any and all process, may be directed for service or execution, to the sheriff of any and as many counties of this state, as may be needful, and the same may by such officer be served or executed in his county. Suits in equity &c.—how proceeded with.

SEC. 2. Where any suit is commenced or is pending in any court of this state for the foreclosure of any mortgage, partition of real estate, or to compel the specific performance of any contract, relative to real estate, or to quiet title thereto, or to divest or transfer the like to the same by conveyance or decree, or to compel the sale of the same, for any purpose anthorized by law, the complainant or plaintiff in such suit, in case any defendant therein may be absent from, or non-resident of the state, may Suits commenced, &c.

give personal notice to such defendant in the state wh he may be found, such personal notice may be by a c of the subpœna, summons or process in the cause, atte by the clerk of the court, out of which the same s issue, on the back of which a brief statement of the ca of action shall be endorsed, and for this purpose the c shall issue as many original subpœneas or processes endorsed, as the plaintiff shall require.

Defendant required to appear and plead.

SEC. 3. Such process or subpoena shall require such fendant to appear and plead, in the court from whence same was issued, in not less than two, nor more than months from the service thereof, as shall be ordered by court commissioner or judge at chambers, and it may served by any sheriff, notary public, justice of the peace by any officer authorized by the laws of the state or terri where such defendant may be, to serve similar process the county, city or jurisdiction where such service is ma and the person serving such process shall make affida of the time and manner of making the service, bef some officer authorized by the laws of such state to minister oaths, and that he is such officer as is authori by this section to serve such process; the official char ter and authority of the person administering such oa shall be authenticated by the certificate of a clerk o court of record, under his seal of office, or by the ce cate and seal of the proper certifying officer of the cou or jurisdiction where the person administering such oa exercises his office.

Affidavit of service.

SEC. 4. The affidavit of service and certificate requi by the preceding section, shall be written upon or atta ed to a copy of the process or subpoena served on a defendant, attested as hereinbefore provided, and the sa shall be transmitted to the clerk who issued such proce by mail or other conveyance.

In case defendant don't appear, &c.

SEC. 5. On filing such process and proof of service, the court where such suit is pending, if the defendant served shall not appear at the time required therein, su defendant shall be proceeded against as though said p cess had been served by the proper officer in this sta and no decree, order or judgment, in a cause where su proof of service has been filed, shall be opened for rehe ing, or set aside, or in any way altered, by any proce ing in behalf of such absent or non-resident defenda unless he shall satisfy the court, by affidavit, or other co petent testimony, that the proof of service filed in the ca

se, and that such defendant received no actual notice ch cause, but such order, judgment or decree, may be side or re-opened, for such reasons as would be suffi-:, provided service was had in this state.

:c. 6. This act shall not be construed so as to prevent plaintiff from proceeding against any absent defend- as heretofore allowed, at the same time, or before, or the proceedings under this act. How construed.

:c. 7. This act shall immediately after its passage be ted by the state printer, and when so printed, shall effect and be in full force.

pproved October 2d, 1856.

CHAPTER 112.

Published November 10.

.ct to secure the enlargement and immediate completion of the improvent of the navigation of the Fox and Wisconsin Rivers, and the payment the scrip and other evidences of indebtedness issued by the State on ount of the same, and for the protection of the settlers on the even secns, etc.

'he people of the State of Wisconsin, represented in ate and Assembly, do enact as follows:

ECTION 1. The Fox and Wisconsin Improvement Com- y, a corporation created by an act of the legislature he state of Wisconsin, July 6th, 1853, are hereby au- rized and required, to make all the dams, locks, canals, ders, and other structures, and to do all the dredging l other work, and furnish all materials necessary to nplete the improvement of the navigation of the Fox l Wisconsin rivers, and the canal connecting the same, l to re-construct the locks at the Portage and Rapide oche, and cause the same to be re-constructed at Depere, in a substantial and workmanlike manner, so that all locks, dams, and other works between Green Bay and Wisconsin river shall be equal or superior in strength, pacity, kind and quality, of materials and workman- ip to the best works of the kind heretofore constructed tween Green Bay and Lake Winnebago; and that du- Fox and Wisconsin Rivers improvement.

ring ordinary low water, steamboats drawing four fe
water shall pass with facility from Green Bay to
Winnebago; and that boats drawing three and a
feet of water shall pass with facility from Lake Wi
bago to the Wisconsin river; and that such boats s
to said locks may meet and pass each other in said l
age canal, and at suitable and convenient places in
other canals, and in the channel of the river, as con
plated in the report of D. C. Jenne, chief engineer, t
directors of said company, dated September 15th, 1
a copy of which is appended to the report of the s
committee of the assembly, of which J. Stark is c
man, and which is on file in the office of the sec
ry of state, and is here referred to as the general
of such enlarged works of improvement. Nothing h
contained shall be construed to release any contra
obligation of any person, persons or corporation fro
maintenance, repair and construction of the said wor

Construction of new locks, &c.

Depere. Said company shall commence the constru
of the new locks and dams required to secure the na
tion herein provided for, within ninety days after the
sage of this act, and shall complete the same, and
canals connected therewith, and all works already
menced, upon the contemplated plan, within two y
and shall complete the enlargement and constructi
the remaining works, and the necessary dredging of
river, within three years after the passage of this
such new and enlarged works shall be so constructe
not to impair the existing rights of the lessees of any
ter power upon such improvements, and so as to d
unnecessary damage to property along the line of

To pay outstanding indebtedness.

improvement. Said company are further required, wi
six months after the passage of this act, to pay all pr
pal and interest due upon the outstanding unpaid evi
ces of indebtedness issued on the part of the state, o
count of the improvement of said Fox and Wisco
rivers, and thereafter to pay the interest and prin
upon all such evidences of indebtedness promptly, a
same shall, from time to time, fall due. They shall
as soon as practicable, perfect the title of the settlers
the even numbered or alternate sections of the impr
ment grant to whom they have sold lands in such
numbered sections. If it shall be found necessary b

To change plan of work.

after to change the plan of the work recommende
said report of D. C. Jenne, the same may be

he approval of the governor of the state,; but in no shall any change reduce the size or capacity of the vements, or impair the character or quality of the or the materials used.

2. To enable said company to perform the duties ed in the preceding section, all the lands now un- granted by Congress in aid of said improvement, as ned by the same body, (and which grants are here- cepted), are hereby granted to the Fox and Wiscon- mprovement Company, subject, however, to the and conditions of said grants by Congress, and to arther terms and conditions following: that is to That within ninety days after the passage of this ie said company shall make a deed of trust to three es, to be appointed as hereinafter provided, includ- nd conveying to said trustees, and their successors, e unsold lands granted to the state of Wisconsin by veral acts and the resolutions of Congress, to aid in nprovement of the Fox and Wisconsin rivers, and e works of improvement constructed, or to be con- ted on said rivers, and all and singular the rights of dams, locks, canals, water powers, and other appur- ices of said works, and all rights, privileges and fran- s belonging to said improvement, and all the property ld company, of whatever name and description, for the , trusts and purposes following, with priority of lien, e order in which they are named, that is to say:

Lands to be conveyed to trustees, &c.

rst. To secure to the state the faithful application of oneys or property arising from the sale of the lands or r powers, or obtained on the faith of the same, as inafter authorized, to the construction and completion ie works of improvement contemplated in this act, as in provided, and to the payment of all outstanding aid evidences of indebtedness issued on the part of state, for or on account of said improvement, and the rest thereon, in accordance with the terms of this act.

To secure the faithful application of all moneys.

econd. For the payment of any bonds heretofore issued hat may hereafter be issued by said company, for or account of said improvement.

Payment of bonds.

hird. To secure to the state the application of the ceeds, or such part thereof as shall be necessary, of the ds claimed for the alternate sections along the Wiscon- river, to the improvement of the Wisconsin river upon plans commenced by the state, by the construction of ig-dams, or upon such other plans as may be hereafter

Wing-dams.

adopted by the said company and approved by the g ernor; *Provided*, That nothing contained in this sect shall be construed as granting or conveying to said co pany any right, title or interest whatever, either pres or contingent to section number five, in township num twelve north, of range number nine east, of the fou principal meridian.

Proviso.

May issue bonds.

SEC. 3. For the purpose of raising funds from time time for the construction, enlargement and complet of said works of improvement, as required by this and for the purchase of materials to be used therein, the payment of the evidences of state indebtedness abo referred to, and interest thereon, and also for the pa ment and redemption of any outstanding obligations said company heretofore issued; said company may is its bonds, countersigned by the said trustees, in sum not less than five hundred, nor more than one thous dollars each, at rates of interest not exceeding ten p centum per annum, payable semi-annually; the prin pal of said bonds payable at a period therein to be nam not exceeding twenty years from their date, and at su place as the company shall designate. The payment said bonds shall be secured by the deed of trust aforesa of said lands, works, water powers, property and fra chises as hereinbefore provided; subject nevertheless the prior lien of the state upon said lands and propert hereinbefore provided for; which said prior lien shall b referred to in such bonds so to be issued by said compa ny. The faith of the state shall be in no wise pledge for the redemption of said bonds. A portion not exceed ing one fourth of the cash proceeds of said lands an water powers, sold and conveyed by said trustees as he inafter provided, may upon requisition of said compan from time to time, be applied by said trustees to the pay ment of interest on loans, or to provide for other expen ditures, as the exigencies of the company may require.

State not holding, &c.

To sell lands in case company fail to comply with act.

In case the said company shall fail to comply with an of the requirements of this act, or to pay the principa or interest of its bonds, issued as herein provided, th said trustees shall sell the said lands, in tracts not ex ceeding six hundred and forty acres, and shall apply th proceeds thereof to the purposes expressed in this act, i the order of priority of liens designated herein; and i the proceeds of said sales are insufficient to complete th intended works of improvement, pay all the evidences o

indebtedness, and interest thereon, and redeem all bonds, and other obligations of said company, then said trustees shall sell the water powers created by improvement, and thereafter all the corporate rights, leges, franchises, and property of said company in improvement, and all appurtenances thereto, to pay same, and the purchasers thereof shall take, hold, use the same as fully, as they are now held, used enjoyed by said company, but it is understood that l the failure of said company to comply with the s of this act, it shall retain possession and control said works of improvement, and have the right to ect tolls thereon, and rents from the lessees of water ers, and to apply the same to the repair and mainte ce of said improvement, and for other purposes. Such s of the lands, water powers, and corporate rights property contemplated in this section shall be made n sixty days notice, published in every county in ch a newspaper is publishhd, lying adjacent to the : river, Lake Winnebago and the Wisconsin river w Portage City; said notice shall also be published y days in the "State Paper" printed and published at capital of this state. In case of such sales by the tees for non-compliance by said company as herein uired, before all of said evidences of state indebted s shall have matured, said trustees shall set apart [out] he proceeds of said lands, water powers and improve nts, a fund sufficient to pay the interest on such re ining state iedebtedness and to sink and redeem the cipal thereof at maturity. Said deed of trust may vide for the safe keeping of moneys which may come the possession of said trustees, and for the creation of king funds for the payment of all liabilities of said npany or for the redemption of its bonds before matu y, subject to the provisions of this act.

To publish sale of lands.

SEC. 4. The said trustees may, on the requisition of said npany, proceed to sell the lands granted by congress aid of said improvement, and may sell or lease the ter powers created by said improvement, in such man r, and upon such terms, as to price, and time and place payment as the company may direct; but none of said ds shall be sold for less than one dollar and twenty five nts per acre, and not less than twenty-five per cent of e purchase money for either said lands or water powers all be paid at the time of sale. All payments for said

Sale of lands and water powers, &c.

lands and water powers shall be made in cash, or the said evidences of state indebtedness at par.—No deeds shall be made for said lands or water powers to the purchasers thereof, until full payment shall have been made as above. The trustees shall apply all moneys received on such sales, except one fourth thereof, above authorized to be reserved for payment of interest and for other purposes:

Proceeds—to what applied.

1st. To the payment of the said evidences of state indebtedness, and to the completion of said improvement as far as shall be necessary, and thereafter to the redemption of the bonds of the company in such manner as may be prescribed in the said deed of trust (which bonds shall be cancelled by said trustees and returned to said company,) and said evidences of state indebtedness received on sales of lands and water powers, or redeemed with the proceeds thereof, or otherwise, shall be delivered by said trustees to said company, and deposited by said company with the state treasurer to be cancelled. On receiving the full price of such lands or water powers so sold, in money or state indebtedness as aforesaid, said trustees shall convey the tract or tracts or water power or powers, so sold, by an absolute title in fee simple to the purchaser; which conveyance shall operate as a release or acquittance of the particular tract or tracts or water power or powers, so sold, from all liability or incumbrance on account of said deed of trust, so as to vest in the purchasers a complete and indefeasible title. No sales of said lands, or sales or leases of said water powers shall be made until after the execution and delivery of said deed of trust as above provided.

Before sale trustees to make record, &c.

SEC. 5. Before any sales shall be made of any of said lands, said trustees shall make a record thereof, describing each and every tract of land selected by the state or company, under the act of Congress of August 8th, 1846, and August 3d, 1854, and also under the resolution of Congress of March 3d, 1855; and shall file a certified copy of such record in the office of the secretary of state of the state of Wisconsin, which shall be recorded at the expense of the company, in a book to be provided for that purpose; and shall also file in the office of register of deeds of each county in which any of said lands may lie, a certified list of said lands lying in said counties respectively. The said trustees shall make and keep a record as aforesaid of each and every tract of land sold, with the name of the purchaser, and the price for which the same

was sold, a copy of which record of sales, together with a full statement of the receipts and applications of all moneys which may come into their possession as such trustees, shall be filed in the office of the secretary of state, on the first day of December in each year. Said trustees shall also, as early as practicable, attach to said deed of trust a list of all the lands embraced therein.

Amount to be sold.

SEC. 6. The trustees shall not at any time during the construction of said works of improvement, sell or dispose of any lands, or water powers, to an amount exceeding the sum which shall then have actually been expended upon the said works, and in the payment of interest and principal of said state indebtedness; but may, at the request of said company, sell as the work progresses, so as to meet expenditures actually made on the works of improvement and in the payment of said state indebtedness, as far as the receipts from said sales may go towards their liquidation; and all lands remaining unsold at the expiration of ten years after the completion of said works of improvement, shall be offered at public sale annually until the whole are disposed of, and the avails applied to the payment of the outstanding bonds of said company as aforesaid; or if no such bonds be outstanding, such avails shall be paid to said company.

Certified copies of list of land taken as evidence.

SEC. 7. Copies of the lists of lands required by section five of this act to be filed in the offices of the secretary of state and the registers of deeds of the several counties, shall, when certified to be correct by said officers respectively, under their official seals, be received in any court of this state, as evidence that such lands are the lands granted to the state by said acts and resolutions of Congress in aid of the improvement of the Fox and Wisconsin rivers.

Trustees appointed by the governor, &c.

SEC. 8. The trustees contemplated in this act, shall be appointed by the governor of this state, with the approval and assent of said company, by a vote of the directors thereof, and any trustee so appointed may be removed by the governor, with the assent and approval of said company, expressed as aforesaid. In case of a vacancy caused by the death, resignation, removal, or refusal to serve or other disability, of any trustee, such vacancy shall be filled by appointment in like manner as above. One of the said trustees shall always be a resident of this state. The acts of a majority of said trustees shall have the same effect as if done by all of them, and they shall have power

to appoint such agents, to make contracts and conveyances, and do other acts in their stead as may be necessary to carry out the objects of this act.

Compensation of officers.

SEC 9. The compensation of the trustees appointed under this act, and of all officers and agents of said trustees, or of said company, and all other expenses of the execution of said trust, and of all other purposes of this act shall be at the cost and charge of said company, without charge of any kind upon the treasury of this state.

When the company shall have completed the works, &c.

SEC. 10. Whenever said company shall have completed the works contemplated in this act, shall have paid all the unpaid evidences of indebtedness issued by the state on account of said improvement, and the interest thereon, and shall have secured the titles of the even sections to the purchasers thereof as hereinbefore provided, then the trustees shall hold the said lands, and the right to sell the said works and franchises of the said company, for the benefit of the other specified trusts; and when all the purposes of this act are accomplished, and not before, the said trustees shall convey to the said company the interest of the state in the said lands, work, and other property herein mentioned. The certificate of the governor of this state that any of the purposes of this act are fully accomplished, shall be evidence thereof, to the said trustees, for the objects of this section.

How construed.

SEC. 11. Nothing contained in this act shall be construed to release or discharge the bonds given by the first members of said company to the state under section two of their act of incorporation; but said bonds, and the provisions of said act of incorporation shall as far as consistent with this act, be held and continued in force for all purposes expressed therein, except only the condition to complete the works of improvement within the time and according to the terms stated in said bonds. Nor shall this act be construed as an acknowledgement on the part of the state that any of the evidences of indebtedness herein referred to, are a just and valid charge against the state treasury. Nor shall the state be liable for any acts or obligations of said company.

Contracts, &c.

SEC. 12. The president, vice president or other officer of said company may execute contracts, agreements, or conveyances which may be authorized by resolutions or by-laws of the board of directors or company.

When this act becomes void.

SEC. 13. This act and all grants herein contained, shall cease and be void unless accepted by said company with-

in ninety days after the passage of this act; and immediately on such acceptance, expressed by a resolution of the board of directors of said company, a copy of which, certified under the seal of the company, by their secretary, shall be filed in the office of the secretary of state; the said deed of trust shall be made as above provided. In case, however, said company shall fail to assent to the provisions of this act, to file said certified copy of their said resolution, or to make the said deed of trust within ninety days after the passage of this act, then this act shall cease to be of force; and it shall be the duty of the governor to select or cause to be selected, the land to which the state become entitled under the resolution of Congress above referred to, approved March 3d, 1855, and to file a list thereof in the office of the secretary of state; and the said company is hereby prohibited in such case from selling or disposing of said last mentioned lands, or any part thereof, or exercising any authority or control over the same.

To secure titles.

SEC. 14. For the security of the titles of those portions of the even or reserved sections of the Fox river grants, which have been sold by said company to the settlers thereon, the first bonds of said company issued in conformity with the provisions of the 3d section of this act, to the amount of $150,000, shall be deposited with the governor of this state, within three months after the passage of this act, as a pledge for the security of the titles of such settlers; and upon securing said titles, said bonds shall be redelivered to said company.

Public act.

SEC. 15. The provisions of the revised statutes relating to trusts, trustees and trust estates shall not be applied to the trusts herein provided for, but this act shall be deemed a public act, and shall be favorably construed for all purposes therein expressed and declared, in all courts and places whatsoever, and shall be in force from and after its passage.

Approved October 3, 1856.

CHAPTER 113.

Published October 4.

An Act to provide for determining and finally settling and paying the claim of Andrew Proudfit, for work done, materials furnished, and for damages arising or growing out of his contract with the commissioners of the Wisconsin State Lunatic Asylum, entered into on the sixteenth day of November, 1854.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Commission to determine claim of A. Proudfit.

SECTION 1. Timothy O. Howe, Frederick S. Lovell and Wm. Pitt Lynde, are hereby appointed commissioners and authorized and directed to hear and determine the claims of Andrew Proudfit, for work, labor and services done and performed, and materials furnished by him, under his contract with David S. Viltum, Alden S. Sanborn and Sam. G. Bugh, commissioners appointed under an act approved March 30th, 1854, entitled "an act to provide for a state lunatic asylum," for the building of a state lunatic asylum, bearing date on the 16th day of November, 1854, and also to examine, hear and determine his claim for damages growing out of the repeal of the law authorizing the said commissioners to enter into said contract, and the suspension of the work under such contract, by the state, under and by the act approved March 29, 1855, and that said commissioners award such sum to said Proudfit for such work and damages as shall be just and equitable.

Time of meeting.

SEC. 2. The said commissioners shall appoint such time at the city of Madison, between this and the first day of December next, as to them shall be convenient, to meet and hear the proofs and allegations of the said Proudfit and the proofs and allegations on the part of the state, and shall have power to subpœna and examine witnesses on either side, and for that purpose are authorized to administer oaths, and may, for good cause shown by either party, adjourn the hearing, from time to time, as the end of justice may require, and after hearing the proofs and allegations on both sides, the decision or award of said referees or a majority of them, to be made in writing, and

Award final.

filed in the office of the secretary of state, shall be final and conclusive on the state as well as the said Proudfit.

SEC. 3. It shall be the duty of the attorney general or of such other counsel as the governor may select and appoint for that purpose (which he is hereby authorized to select and appoint) to conduct said hearing upon the part of the state. Governor to employ counsel.

SEC. 4. The said commissioners shall give the attorney general or such other counsel as the governor may select and appoint, and the said Proudfit, at least thirty days notice of the time and place appointed by them for the hearing of said matters, and difference, in the first section of this act, mentioned. Notice to parties of time of meeting.

SEC. 5. Nothing in this act contained, shall be understood or construed to be an affirmance or admission of the legality of the said contract or the liability of the state upon such contract, either for work done or damages sustained by reason of the suspension of work under such contract, but the only and true object and intent and meaning, being to adopt a plan and create a tribunal to finally settle the liabilities of the state (if any) to said Proudfit upon said contract, and the right and extent of the claim of said Proudfit, for damages for the work done and the suspension of the work under such contract, by the act of March 30th, 1855, and for that purpose the referees are invested with full power and authority to hear the whole case and decide the same upon the merits according to the established principles of law and equity. Act—how construed.

SEC. 6. The governor and secretary of state are hereby empowered to allow said commissioners such compensation for their services under this act as shall be just and reasonable, and one half of said sum so fixed shall be paid by the secretary of state's draft upon the treasurer, and the other half by said Proudfit. The governor and secretary of state may require the said Proudfit to deposit with the treasurer such sum as he may deem reasonable to pay his portion of said expenses. Compensation of commissioners.

SEC. 7. The secretary of state is hereby authorized and required, upon the filing of the report or award of the said commissioners in his office, duly signed and sealed by them or a majority of them, to draw his warrant upon the treasurer for the amount (if any) reported and awarded to be due from the state to said Proudfit, to be paid by the treasurer out of the general fund in his hands not On filing of award of commissioners.

otherwise appropriated; *Provided*, That the said Prendl shall execute and file in his office a full release of all claims and demands against the state growing out of said contract.

To fill vacancy

SEC. 8. In case said commissioners or either of them shall decline or refuse to serve, or die, or resign, the governor is hereby authorized to fill such vacancy by appointment of a commissioner or commissioners to fill such vacancy.

Approved October 2, 1856.

CHAPTER 114.

Published October 7.

An Act to organize the county of Eau Claire.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

To organize county of Eau Claire.

SECTION 1. So much of the county of Chippewa as is situated south of the township line between township twenty seven (27) and twenty eight (28), is hereby organized into a separate county, to be known by the name of Eau Claire.

Rights, &c.

SEC. 2. The said county of Eau Claire is hereby erected established and organized, with all the rights, privileges, both for governmental and judicial purposes as is by law granted to other counties in this state.

Election of county officers

SEC. 3. That on the last Tuesday in December, A. D. 1856, the electors resident in said new county shall meet in their respective towns and precincts, at the usual places for holding elections, and then and there proceed to elect all and every of the county officers, provided by law for county government, which said officers shall hold their office when duly qualified until the expiration of the time of similar officers in other counties.

Return of election.

SEC. 4. The returns of said election for county officers shall be returned to and canvassed by the town board of supervisors elect of the town of Eau Claire in the same

manner as by boards of county canvassers, and all oaths of office, and official bonds of said county officers shall be filed in the office of town clerk of the said town of Eau Claire, and that the official bonds of said county officers shall be approved by the chairman of the board of supervisors of the said town of Eau Claire.

SEC. 5. The village of Eau Claire is hereby declared to be the county seat of the said county of Eau Claire; the circuit court of the eighth (8) judicial circuit of Wisconsin, shall hold its session at the county seat of Eau Claire, commencing on the third Monday of May, and on the last Monday in September in each year. County seat.

SEC. 6. This act shall take effect and be in force from and after the election and qualification of the county officers as hereinbefore provided. When to take effect.

Approved October 6, 1856.

CHAPTER 115.

Published November 12.

An Act to provide for the annual examination of the accounts of certain State officers.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. A joint standing committee consisting of one member of the senate and two members of the assembly, to be called the "committee for investigation," shall be elected or appointed in such manner as other committees are elected or appointed at the commencement of each annual session of the legislature, whose duty it shall be to examine the annual reports of the secretary of state, state treasurer and commissioners of the school and university lands, for the year next preceding, and all books, records, accounts and vouchers of said officers respectively, pertaining to the condition and management of the state treasury, and of all lands and funds in charge of said officers or any or either of them during said year, and to report the result of such examination to For appointment of committee of investigation.

the legislature, within four weeks after the commencement of such session.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved October 6, 1856.

CHAPTER 116.

Published November 18.

An Act concerning Notaries Public, and other officers.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Concerning notaries public

SECTION 1. The clerks of the circuit court of this state are hereby authorized to certify, in the same manner as they are now authorized to do in the case of justices of the peace, to the official qualifications of any notary public residing in their county, who shall have deposited in their office a certificate of the secretary of state, showing that such notary public is duly qualified, and the time when his commission will expire, together with his autograph and an impression of his official seal.

Record by clerk of circuit court.

SEC. 2. It shall be the duty of the several clerks of the circuit court to keep a record of all certificates so deposited with him as aforesaid.

Resignations, [illegible]

SEC. 3. It shall be the duty of the secretary of state, when any notary public shall resign or be removed from his office, to notify forthwith the clerk of the circuit court of the proper county of such resignation or removal.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved October 6, 1856.

CHAPTER 117.

Published November 18.

An Act to amend chapter 386 of the session laws of 1852, entitled "an act relating to hawkers and pedlars."

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 386 of the session laws of 1852 is hereby so amended that it shall not hereafter be necessary for any person to obtain a license to sell or to travel from place to place for the purpose of carrying to sell any printed book, newspaper, pamphlet or map whether the same shall have been produced or printed in the state or not. Concerning book pedlars.

SEC. 2. This act shall not authorize the sale or the traveling for the purpose of carrying to sell any immoral or obscene book, paper or pamphlet, or playing cards.

SEC. 3. So much of chapter 386 of the session laws of 1852 or of any other law of this state as contravenes the provisions of this act are hereby repealed. Repealed.

SEC. 4. This act shall be in force and take effect from and after its passage.

Approved October 6, 1856.

CHAPTER 118.

Published November 12.

An act to accept the grant and execute the trust conferred upon the State of Wisconsin, by an act of Congress entitled "an act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3d, 1856.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. That the lands, rights, powers and privileges, granted to and conferred upon the state of Wisconsin by the act of Congress, entitled "an act granting To accept land grant

public lands to the state of Wisconsin, to aid in the construction of railroads in said state," approved June 3d, 1856, be and the same are hereby accepted, upon the terms, conditions and restrictions contained in said act of Congress, and the said state of Wisconsin hereby assumes and undertakes the trust created by the said act of Congress.

SEC. 2. This act shall be in force so soon as the same is published.

Approved October 8th, 1856.

CHAPTER 119.

Published November 12.

An Act to authorize county boards of supervisors to order the publication of public notices relating to county affairs in foreign languages.

The people of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

Supervisors may order printing in foreign languages.

SECTION 1. In all cases where the board of supervisors of any county in this state shall deem it necessary for the better information of the different inhabitants thereof, they shall have the power to order public notices relating to tax sales or other affairs of said county, to be inserted in papers published in any other than the English language, and circulated in said county.

Rate.

SEC. 2. The rates for such publications shall be the same as those prescribed by law for the publication in the English language, and no extra charge shall be allowed for the translation of the same.

How paid.

SEC. 3. All such publications shall be paid by the county ordering the same, and the county board of supervisors shall audit all such accounts, and draw orders on the county treasurer in payment therefor.

Acts legalized.

SEC. 4. The acts of any county board of supervisors heretofore ordering publications (and paying for the same by orders drawn on the county treasurer) in any paper printed in a foreign language, are hereby legalized, and the county treasurer of any such county is hereby author-

ized and directed to receive all orders on them for such printing, in payment of taxes or otherwise, as county orders issued for other purposes.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved October 9, 1856.

CHAPTER 120.

Published, in Supplement, January 5.

AN ACT to simplify and abridge the Practice, Pleadings and Proceedings of the Courts of this State.

WHEREAS, it is expedient that the present forms of actions and pleadings in cases at common law should be abolished; that the distinction between legal and equitable remedies should no longer continue, and that an uniform course of proceeding, in all cases, should be established: *Therefore,*

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Remedies in the courts of justice are divided into: **Division of remedies.**

1. Actions:
2. Special proceedings.

SEC. 2. An action is an ordinary proceeding in a court of justice, by which a party prosecutes another party for the enforcement or protection of a right, the redress or prevention of a wrong, or the prevention of a public offence. **Definition of an action.**

SEC. 3. Every other remedy is a special proceeding. **Definition of a special proceeding.**

SEC. 4. Actions are of two kinds. **Division of actions.**

1. Civil:
2. Criminal:

SEC. 5. A criminal action is prosecuted by the people of the state, as a party against a person charged with a public offence, for the punishment thereof. **Definition of criminal actions.**

SEC. 6. Every other is a civil action. **Definition of a civil action.**

Civil and criminal remedies not merged.

SEC. 7. Where the violation of a right admits of both civil and criminal remedy, the right to prosecute the one is not merged in the other.

To what actions this act relates.

SEC. 8. This act relates to civil actions in the courts of this state commenced after the tenth day of December eighteen hundred and fifty six, except where otherwise provided herein.

Justice Courts.

Jurisdiction of justice not charged.

SEC. 9. The courts of justice of the peace shall continue to exercise the jurisdicion now vested in them respectively, and the proceedings in such courts shall be as now prescribed by law, except as otherwise provided by this act.

Rules of pleading.

SEC. 10. The following rules of pleading and proceeding shall be observed in the courts of justice of the peace

1.

Pleadings.

The pleadings in these cases are:

1. The complaint of the plaintiff;
2. The answer by the defendant.

2.

Pleadings how put in.

The pleadings may be oral or in writing; if oral, the substance shall be entered by the justice in his docket; if in writing, they shall be filed by him, and a reference to them be made in the docket.

3.

Complaints.

The complaint shall state in a plain and direct manner, the facts constituting the cause of action.

4.

Answer.

The answer may contain a denial of the complaint, or of any part thereof, and also notice in a plain and direct manner of any facts constituting a defence.

5.

Pleadings what to contain.

Pleadings are not required to be in any particular form, but must be such as to enable a person of common understanding to know what is intended.

6.

Demurrer.

Either party may demur to a pleading of his adversary, or any part thereof, where it is not sufficiently ex-

plicit to enable him to understand it, or it contain no cause of action or defense, although it be taken as true.

Proceedings on demurrer

7. If the court deem the objection well founded, it shall order the pleading to be amended; and if the party refuse to amend the defective pleading shall be disregarded.

Plaintiff to prove his case if defendant do not appear.

8. In case a defendant does not appear and answer, the plaintiff cannot recover without proving his case, except in cases provided by law.

Proceedings in action on account of instrument for the payment of money only

9. In an action or defence founded upon an account or an instrument for the payment of money only, it shall be sufficient for a party to deliver the account or instrument to the court and to state that there is due to him from the adverse party a specified sum which he claims to recover or set off.

Variance when disregarded.

10. A variance between the proof on the trial and the allegation in a pleading shall be disregarded as immaterial, unless the court shall be satisfied that the adverse party has been misled to his prejudice thereby.

Amending pleadings

11. The pleadings may be amended at any time before the trial or during the trial or upon appeal, when, by such amendment, substantial justice will be promoted. If the amendment be made after the joining of the issue, and it be made to appear to the satisfaction of the court by oath that an adjournment is necessary to the adverse party, in consequence of such amendment an adjournment shall be granted. The court may, also, in its discretion, require as a condition of an amendment, the payment of costs to the adverse party, to be fixed by the court; but no amendment shall be allowed after the witnesses are sworn on a trial, whereon an adjournment thereby will be made necessary.

Execution when issuable and returnable

12. Execution may be issued on a judgment heretofore or hereafter rendered in a justice court, at any time within two years after the rendition thereof, and shall be returnable thirty days from the date of the same.

13.

Execution on justices judgment docketed

If the judgment be docketed with the clerk of the circuit court, the execution shall be issued by him to the sheriff of the county and have the same effect, and be executed in the same manner as other executions and judgments of the circuit court.

14.

Requiring party to exhibit his account.

The court may at the joining of issue, require either party, at the request of the other, at that or some other specified time, to exhibit his account or demand, or state the nature thereof as far forth as may be in his power, and in case of his default, preclude him from giving evidence of such parts thereof as shall not have been so exhibited or stated.

15.

Certain provisions made applicable to these courts.

The provisions of this act respecting forms of actions, parties to actions, and the examination of parties and witnesses shall apply to courts of justices of the peace.

Distinction between actions at law and suits in equity and form of all such actions and suits abolished.

SEC. 11. The distinction between actions at law and suits in equity, and the forms of all such actions and suits heretofore existing, are abolished; and there shall be in this state, hereafter, but one form of action for the enforcement or protection of private rights and the redress of private wrongs, which shall be denominated a civil action.

Parties to an action how designated.

SEC. 12. In such action, the party complaining, shall be known as the plaintiff, and the adverse party as the defendant.

Actions on judgment when and how brought.

SEC. 13. No action shall be brought upon a judgment rendered in any court of this state, except a court of the justice of the peace, between the same parties, without leave of the court, for good cause shown on notice to the adverse party; and no action on a judgment rendered by a justice of the peace shall be brought in the same county within two years after its rendition, except in cases of his death, resignation, incapacity to act, or removal from the county, or that the process was not personally served on the defendant, or on all the defendants, or in case of the death of some of the parties, or where the docket or record of such judgment is or shall have been lost or destroyed.

SEC. 14. Feigned issues are abolished, and instead thereof, in the cases where the power now exists to order a feigned issue, or when a question of fact, not put in issue by the pleadings, is to be tried by a jury. An order for the trial may be made, stating distinctly and plainly the question of fact to be tried, and such [order] shall be the only authority necessary for a new trial.

Feigned issues abolished and order for trial substituted.

SEC. 15. Every action must be prosecuted in the name of the real party in interest, except as otherwise provided in section seventeen; but this section shall not be deemed to authorize the assignment of a thing in action not arising out of a contract.

Action to be in the name of the real party in interest.

SEC. 16. In case of an assignment of a thing in action, the action of the assignee shall be without prejudice to any set off or other defence existing at the time of or before notice of the assignment, but this section shall not apply to a negotiable promissory note or bill of exchange transferred in good faith, and upon good consideration before due.

Assignment of a thing in action not to prejudice a defence.

SEC. 17. An executor or administrator, a trustee of an express trust, or a person expressly authorized by statute, may sue without joining with him the person for whose benefit the action is prosecuted; a trustee of an express trust, within the meaning of this section, shall be construed to include a person with whom or in whose name a contract is made for the benefit of another.

Executor or trustee may sue without the persons beneficially interested.

SEC. 18. When a married woman is a party, her husband must be joined with her, except that:

When a married woman is party the husband to be joined.

1. When the action concerns her seperate property, she may sue alone.

2. When the action is between herself and husband, she may sue, or be sued alone.

Except.

SEC. 19. But where the husband cannot be joined with her, as herein provided, she shall prosecute and defend by her next friend.

When he cannot, must sue by next friend.

SEC. 20. When an infant is a party, he must appear by his next friend or guardian as now provided by law.

Infant to appear by guardian.

SEC. 21. All persons having an interest in the subject of the action and in obtaining the relief demanded, may be joined as plaintiffs, except as otherwise provided in this title.

Who may be joined as plaintiffs.

SEC. 22. Any person may be made a defendant who has or claims an interest in the controversy, adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the questions involved therein.

Who may be joined as defendants.

Parties united in interest, when to be joined and when one or more may sue and defend for the whole.

SEC. 23. Of the parties to the action, those who are united in interest must be joined as plaintiffs or defendants; but if the consent of any one, who shall have been joined as plaintiffs, cannot be obtained, he may be made a defendant, the reason thereof being stated in the complaint, and when the question is one of a common or general interest of many persons, or when the parties are very numerous, and it may be impracticable to bring them all before the court, one or more may sue or defend for the benefit of the whole.

Plaintiff may sue in one action all the parties to commercial paper.

SEC. 24. Persons severally liable upon the same obligation or instrument, including the parties to bills of exchange and promissory notes, may all, or any of them, be included in the same action, at the option of the plaintiff.

Actions when not to abate by death, marriage, or other disability and procedure in such case.

SEC. 25. No action shall abate by the death, marriage, or other disability of a party, or by the transfer of any interest therein, if the cause of action survive or continue. In case of death, marriage or other disability of a party, the court, on motion at any time within one year thereafter or afterwards, on a supplemental complaint, may allow the action to be continued by or against his representative or successor in interest. In case of any other transfer of interest, the action shall be continued in the name of the original party, or the court may allow the person to whom the transfer is made, to be substituted in the action.

Court when to decide controversy or to order other parties to be brought in.

SEC. 26. The court may determine any controversy between the parties before it, when it can be done without prejudice to the rights of others or by saving their rights, but when a complete determination of the controversy cannot be had without the presence of other parties, the court shall order them to be brought in; and when in an action for the recovery of real or personal property, a person not a party to the action, but having an interest in the subject thereof, makes application to the court to be made a party, it may order him to be brought in by the proper amendment. A defendant, against whom an action is pending, upon a cantract, or for specific, real, or personal property, may at any time before answer, upon affidavit, that a person, not a party to the action, and without collusion with him makes against him a demand for the same debt or property, upon due notice to such person, and the adverse party apply to the court for an order to substitute such person in his place, and discharge him from liability to either party, on his depositing in court the

Proceeding instead of bill of interpleader.

amount of the debt, or delivering the property or its value to such person as the court may direct, and the court may, in its discretion, make the order.

SEC. 27. Actions for the following causes must be tried in the county in which the subject of the action or some part thereof is situated, subject to the power of the court to change the place of trial in the cases provided by statute:

Certain actions to be tried where the subject is situated

1. For the recovery of real property, or of an estate or interest therein, or for the determination in any form of such right or interest, and for injuries to real property.

2. For the protection of real property.

3. For the foreclosure of a mortgage of real property.

4. For the recovery of personal property distrained for any cause.

SEC. 28. Actions for the following causes must be tried in the county where the cause or some part thereof arose, subject to the like powers of the court to change the place of trial in the cases provided by statute:

Other actions where the cause arose.

1. For the recovery of a penalty or forfeiture imposed by statute, except that when it is imposed for an offence committed on a lake, river, or other stream of water, situated in two or more counties, the action may be brought in any county bordering on such lake, river, or stream where the offence was committed.

2. Against a public officer, or person specially appointed to execute his duties, for an act done by him in virtue of his office, or against a person who, by his command, or in his aid, shall do any thing touching the duties of such officer.

SEC. 29. In all other cases, the action shall be tried in the county in which the parties, or any of them, shall reside at the commencement of the action; or if none of the parties shall reside in the state, the same may be tried in any county which the plaintiff shall designate in his complaint, subject, however, to the power of the court to change the place of trial in the cases provided by the statute. If the county designated for that purpose in the complaint, be not the proper county, the action may, notwithstanding, be tried therein, unless the defendant, before the time for answering expire, demand, in writing, that the trial be had in the proper county, and the place of trial be thereupon changed by consent of parties, or by order of the court as provided in this section.

Other actions according to the residence of the parties unless changed on demand of defendant.

In what cases place of trial may be changed.

SEC. 30. The court may change the place of trial in the following cases:

1. Where the county designated for that purpose in the complaint, is not the proper county.

2. Where there is reason to believe that an impartial trial cannot be had therein.

3. When the convenience of witnesses, and the ends of justice would be promoted by the change.

Where the place of trial is changed papers to be transferred also.

SEC. 31. When the place of trial is changed, all other proceedings shall be had in the county to which the place of trial is changed, unless otherwise provided by the consent of the parties in writing duly filed, or order of the court, and the papers shall be filed or transferred accordingly.

Actions, how commenced.

SEC. 32. Civil actions in the courts of records of this state shall be commenced by the service of a summons with or without seal.

Summons, requisite of.

SEC. 33. The summons shall be subscribed by the plaintiff or his attorney, and directed to the defendant, and shall require him to answer the complaint, and serve a copy of his answer on the person whose name is subscribed to the summons at a place within the state to be therein specified, in which there is a post office, within twenty days after the service of the summons, exclusive of the day of service.

Notice to be inserted in certain actions

SEC. 34. The plaintiff shall also insert in the summons a notice in substance as follows:

1. In an action arising on contract for the recovery of money only, that he will take judgment for a sum specified therein, if the defendant fail to answer the complaint in twenty days after the service of the summons.

2. In other actions, that if the defendant shall fail to answer the complaint within twenty days after service of the summons, the plaintiff will apply to the court for the relief demanded in the complaint.

Complaint need not be served with summons, in such case summons must state where it is, or it will be filed.

SEC. 35. A copy of the complaint need not be served with the summons. In such case the summons shall state where the complaint is, or will be filed. And if the defendant, within twenty days thereafter, in person or by attorney, demand, in writing, a copy of the complaint, specifying a place within the state where it may be served; a copy of it shall be served within twenty days thereafter accordingly; and after such service, the defendant shall have twenty days to answer; but only one copy need be served on the same attorney. In the case

of a defendant against whom no personal claim is made in an action, the plaintiff may deliver to such defendant, with a summons, a notice subscribed by the plaintiff or his attorney, setting forth the general object of the action. A brief description of the property affected by it, if it affect specific, real, or personal property, and that no personal claim is made against such defendant, in which case no copy of the complaint need be served on such defendant, unless within the term for answering, he shall, in writing, demand the same.

When must be served.

When notice of object of suit may be served with summons.

SEC. 36. If a defendant on whom such notice is served, unreasonably defend the action, he shall pay costs to the plaintiff.

Defendant unreasonably defending when to pay costs.

SEC. 37. In an action affecting the title to real property, the plaintiff at the time of filing the complaint, or at any time afterwards, may file with the clerk of the circuit court of each county in which the property is situated, a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the property in that county affected thereby, and if the action be for the foreclosure of a mortgage, such notice must be filed twenty days before judgment, and must contain the date of the mortgage, the parties thereto, and the time and place of recording the same. From the time of filing only, shall the pendency of the action be constructive notice to a purchaser or incumbrancer of the property affected thereby.

Notice of pendency of action affecting title to real property.

SEC. 38. The summons may be served by the sheriff of county where the defendant may be found, or by any other person not a party to the action.

Summons, by whom served.

The service shall be made, and the summons returned, with proof of the service, to the person whose name is subscribed thereto, with all reasonable diligence.

The person subscribing the summons may, at his option, by an endorsement on the summons, fix a time for the service thereof, and the service then shall be made accordingly.

SEC. 39. The summons shall be served by delivering a copy thereof as follows:

Summons how served and returned.

1. If the suit be against a corporation to the president or other head of the corporation, secretary, cashier, treasurer, director, or managing agent thereof, but such service can be made in respect to a foreign corporation only when it has property within this state, or the cause of action arose therein.

2. If against a minor, under the age of fourteen years, to such minor personally, and also to his father, mother or guardian, or if there be none within the state, then to any person having the care and control of such minor, or with whom he shall reside, or in whose service he shall be employed.

3. If against a person judicially declared to be of unsound mind, or incapable of conducting his own affairs in consequence of habitual drunkenness, and for whom a committee has been appointed, to such committee, and to the defendant personally.

4. In all other cases to the defendant personally, or if not found, by leaving a copy thereof at his usual place of abode, in presence of some one of the family of suitable age and discretion who shall be informed of the contents thereof.

Affidavit—what to contain.

SEC. 40. When the person on whom the service of the summons is to be made, cannot after due diligence be found within the state, and that fact shall appear by affidavit to the satisfaction of a court or a judge thereof, or a county judge or court commissioner, and it shall in like manner appear that a cause of action exists against the defendant in respect to whom the service is to be made, or that he is a necessary or proper party to an action relating to real property in this state, such court or judge may grant an order that the service be made by the publication of a summons in either of the following cases:

In what cases publication may be made.

1. Where the defendant is a foreign corporation and has property within this state or the cause of action arose therein.

2. When the defendant, being a resident of this state has departed therefrom with intent to defraud his creditors or avoid the service of a summons, or keeps himself concealed therein with the like intent.

3. Where he is a non-resident but has property therein, and the action is on contract, and the court has jurisdiction of the subject of the action.

4. Where the subject of the action is real or personal property in this state, and the defendant has or claims a lien or interest, actual or contingent therein, or the relief demanded consists wholly or partly in excluding the defendant from any interest or lien therein.

5. Where the action is for divorce in the cases prescribed by law:

The order shall direct the publication to be made in one newspaper, to be designated as most likely to give notice to the person to be served, and for such length of time as shall be deemed reasonable, not less than once a week for six weeks.

What the order shall contain.

In case of publication, the court or judge shall also direct a copy of the summons and complaint to be forthwith deposited in the post office, directed to the person to be served, at his place of residence, unless it appears that such residence is neither known to the party making the application nor can with reasonable diligence be ascertained by him.

Personal service of summons and complaint, equivalent to publication.

When the publication is ordered, personal service of a copy of the summons and complaint out of the state shall be equivalent to publication and deposit in the post office.

When defendant may be allowed to defend.

If the summons shall not be personally served on a defendant, nor received by such defendant, through the post office, in the cases provided for in this section, he, or his representatives shall, on application and sufficient cause shown, at any time before judgment be allowed to defend the action; and except in actions for divorce, the defendant or his representatives may, in like manner, upon good cause shown, be allowed to defend after judgment, or in any time within one year after notice thereof, and within three years after its rendition, on such terms as shall be just, except in actions for divorce; and if the defence be successful, and the judgment or any part thereof, shall have been collected or otherwise enforced, such restitution may thereupon be compelled as the court shall direct, and the court may require bonds to be given for such restitution before execution is issued, as is now required by law, but the title to property sold under such judgment, to a purchaser in good faith, shall not thereby be affected; and in all cases where publication is made, the complaint shall be first filed, and the summons as published shall state the time and place of such filing.

Bonds for restitution in all such cases. Complaint to be first filed.

SEC. 41. When the action is against two or more defendants, and the summons is served on one or more but not on all of them, the plaintiff may proceed as follows:

Proceedings where there are several defendants, and part only are served.

1. If the action be against several persons jointly indebted upon a contract, he may proceed against the defendant served, unless the court shall otherwise direct; or,

2. In an action against defendants severally liable, he may proceed against the defendant or defendants served

in the same manner as if such defendant or defendants were the only parties proceeded against.

3. If all the defendants have been served, judgment may be taken against any or either of them severally, when the plaintiff would be entitled to judgment against such defendant or defendants, if the action had been against them, or any of them alone.

When service complete in case of publication.

SEC. 42. In the cases mentioned in section forty, the service of the summons shall he deemed complete at the expiration of the time prescribed by the order for publication.

Service of summons—how proved.

SEC. 43. Proof of the service of the summons and of the complaint, or notice, if any, accompanying the same, shall be as follows:

1. If served by the sheriff, his certificate thereof; or,

2. If by any other person, his affidavit thereof; or

3. In case of publication, the affidavit of the printer or his foreman or principal clerk, showing the same, and an affidavit of a deposit of a copy of the summons in the post office, as required by law, if the same shall have been deposited; or,

4. The written admission of the defendant. In case of service otherwise than by publication the certificate or affidavit shall state the time and manner of service.

When jurisdiction of action acquired.

SEC. 44. From the time of the service of the summons in a civil action or the allowance of a provisional remedy the court shall be deemed to have acquired jurisdiction, and to have control of all the subsequent proceedings. A voluntary appearace of a defendant is equivalent to a personal service of the summons upon him.

Forms of pleading heretofore existing, abolished.

SEC. 45. All the forms of pleading heretofore existing, are abolished, and hereafter the forms of pleading in civil actions, in courts of record, and the rules by which the sufficiency of the pleadings are determined are those prescribed by this act.

First pleading to be complaint.

SEC. 46. The first pleading on the part of the plaintiff is the complaint.

Complaint, what to contain.

SEC. 47. The complaint shall contain,

1. The title of the cause, specifying the name of the court in which the action is brought, the name of the county in which the plaintiff desires the trial to be had, and the names of the parties to the action, plaintiff and defendant.

2. A plain and concise statement of the facts constituting a cause of action without unnecessary repetition.

3. A demand of the relief to which the plaintiff supposes himself entitled; if the recovery of money be demanded the amount thereof shall be stated.

Defendant to demur or answer.

SEC. 48. The only pleading on the part of the defendant is either a demurrer or an answer. It must be served within twenty days after the service of the copy of the complaint.

When the defendant may demur, and causes of demur.

SEC. 49. The defendant may demur to the complaint, when it shall appear upon the face thereof; either,

1. That the court has no jurisdiction of the person, of the defendant or the subject of the action; or,

2. That the plaintiff has not legal capacity to sue; or,

3. That there is another action pending between the same parties for the same cause; or,

4. That there is a defect of parties, plaintiff or defendant; or,

5. That several causes of action have been improperly united; or,

6. That the complaint does not state facts sufficient to constitute a cause of action.

Demurrer must specify grounds of objection to complaint.

SEC. 50. The demurrer shall distinctly specify the grounds of objection to the complaint. Unless it do so, it may be disregarded. It may be taken to the whole complaint, or to any of the alleged causes of action stated therein.

How to proceed if complaint be amended.

SEC. 51. If the complaint be amended, a copy thereof must be served on the defendant, who must answer it within twenty days, or the plaintiff upon filing with the clerk, due proof of the service, and of the defendant's omission, may proceed to obtain judgment as provided by section one hundred and fifty eight, but where an application to the court for judgment is necessary, eight days notice thereof must be given to the defendant.

Objection not appearing on complaint, may be taken by answer.

SEC. 52. When any of the matters enumerated in section forty-nine do not appear upon the face of the complaint, the objection may be taken by answer.

Objection, when deemed waived.

SEC. 53. If no such objection be taken either by demurrer or answer, the defendant shall be deemed to have waived the same, excepting only the objection to the jurisdiction of the court, and the objection that the complaint does not state facts sufficient to constitute a cause of action.

Answer, what to contain.

SEC. 54. The answer of the defendant must contain—

1. A general or specific denial of each material allegation of the complaint, controverted by the defendant, or of

any knowldge or information thereof, sufficient to form a belief.

2. A statement of any new matter constituting a defence or counter-claim, in ordinary and concise language, without repetition.

What constitutes a counter claim.

SEC. 55. The counter claim mentioned in the last section, must be one existing in favor of a defendant and against a plaintiff, between whom a several judgment might be had in the action, and arising out of one of the following causes of action:

1. A cause of action arising out of the contract or transaction set forth in the complaint, as the foundation of the plaintiff's claim or connected with the subject of the action.

2. In an action arising on contract, any other cause of action arising also on contract and existing at the commencement of the action.

May set forth as many grounds of defence as exist, but must be separately stated.

SEC. 56. The defendant may set forth by answer as many defences and counter claims as he may have, whether they be such as have been heretofore denominated legal or equitable, or both; they must each be separately stated, and refer to the causes of action which they are intended to answer in such manner that they may be intelligibly distinguished.

Demurrer as to some causes of action and answer as to others.

SEC. 57. The defendant may demur to one or more of several causes of action stated in the complaint and answer the residue.

Sham defences to be stricken out on motion.

SEC. 58. Sham and irrelevant answers and defences may be stricken out on motion, and upon such terms as the court may, in their discretion, impose.

Reply when necessary, and what to contain.

SEC. 59. When the answer contains new matter, constituting a counter claim, the plaintiff may, within twenty days, reply to such new matter, denying, generally or specially, each allegation controverted by him, or any knowledge or information thereof, sufficient to form a belief, and he may allege, in ordinary and concise language, any new matter not inconsistent with the complaint constituting a defence to such new matter in the answer, and the plaintiff may, in all cases, demur to the answer, for insufficiency, stating, in his demurrer, the grounds thereof, and the plaintiff may demur to one or more of several defences or counter-claims, set up in the answer, and reply to the residue of the counterclaim.

In what cases plaintiff may demur to answer.

When defendant may move for judgment upon an answer.

SEC. 60. If the answer contain a statement of new matter constituting a counter claim, and the plaintiff fail to reply or demur thereto within the time prescribed by law,

the defendant may move, on a notice of not less than ten days, for such judgment as he is entitled to upon such statement, and if the case require it, a writ of inquiry of damages may be issued.

SEC. 61. If a reply of the plaintiff to any defence set up by the answer of the defendant be insufficient, the defendant may demur thereto, and shall state the grounds thereof. Demurrer to reply.

SEC. 62. Every pleading in a court of record must be subscribed by the party, or his attorney, and when any pleading is verified, every subsequent pleading, except a demurrer, must be verified also. Pleadings how subscribed and when verified.

SEC. 63. The verification must be to the effect, that the same is true to the knowledge of the person making it, except as to those matters stated on information and belief, and as to those matters he believes it to be true, and must be by the affidavit of the party, or if there be several parties united in interest and pleading together, by one at least of such parties acquainted with the facts, if such party be within the county where the attorney resides, and capable of making the affidavit. The affidavit may also be made by the agent or attorney, if the action or defence be founded upon a written instrument for the payment of money only, and such instrument be in the possession of the agent or attorney; or if all the material allegations of the pleadings be within the personal knowledge of the agent or attorney. When the pleading is verified by any other person than the party, he shall set forth in the affidavit his knowledge, or the grounds of his belief on the subject, and the reasons why it is not made by the party. When a corporation is a party, the verification may be made by any officer thereof. And when the state, or any officer thereof in its behalf is a party, the verification may be made by any person acquainted with the facts. The verification may be omitted when an admission of the truth of the allegations might subject the party to prosecution for felony. And no pleading can be used in a criminal prosecution against the party as proof of a fact admitted or alleged in such pleading. Verification of pleadings.

SEC. 64. It shall not be necessary for a party to set forth in a pleading the items of an account therein alleged, but he shall deliver to the adverse party, within ten days after a demand thereof, in writing, a copy of the account, which, if the pleading is verified, must be verified by his own oath, or that of his agent or attorney, if within the How to state an account in pleading.

personal knowledge of such agent or attorney, to the effect that he believes it to be true, or be precluded from giving evidence thereof. The court, or a judge thereof, or a county judge, may order a further account when the one delivered is defective; and the court may in all cases order a bill of particulars of the claim of either party to be furnished.

Pleadings to be liberally construed.

SEC. 65. In the construction of a pleading for the purpose of determining its effect, its allegations shall be liberally construed with a view to substantial justice between the parties.

Irrelevant and redundant matter to be stricken out.

SEC. 66. If irrelevant and redundant matter be inserted in a pleading, it may be stricken out on motion of any person aggrieved thereby; and when the allegations of a pleading are so indefinite or uncertain, that the precise nature of the charge or defence is not apparent, the court may require the pleading to be made definite and certain by amendment.

Judgments how to be pleaded.

SEC. 67. In pleading a judgment or other determination of a court or officer of special jurisdiction, it shall not be necessary to state the facts conferring jurisdiction, but such judgment or determination may be stated to have been duly given or made. If such allegation be controverted, the party pleading shall be bound to establish on the trial the facts conferring jurisdiction.

Condition precedent how to be pleaded.

SEC. 68. In pleading the performance of conditions precedent in a contract, it shall not be necessary to state the facts showing such performance, but it may be stated generally that the party duly performed all the conditions on his part, and if such allegation be controverted, the party pleading shall be bound to establish on the trial, the facts showing such performance. In an action or defence founded upon an instrument for the payment of money only, it shall be sufficient for the party to give a copy of the instrument, and to state that there is due to him thereon from the adverse party a specified sum which he claims.

Private statutes, how pleaded.

SEC. 69. In pleading a private statute or a right derived therefrom, it shall be sufficient to refer to such statute by its title, and the day of its passage, and the court shall thereupon take judicial notice thereof.

Libel and slander—how stated in complaint.

SEC. 70. In an action for libel or slander, it shall not be necessary to state in the complaint any extrinsic facts for the purpose of showing the application to the plaintiff of the defamatory matters out of which the cause of action

arose; but it shall be sufficient to state generally, that the same was published or spoken concerning the plaintiff, and if such allegation be controverted, the plaintiff shall be bound to establish, on trial, that it was so published or spoken.

Answer in such cases.

SEC. 71. In the actions mentioned in the last section, the defendant may, in his answer, allege both the truth of the matter charged as defamatory, and any mitigating circumstances, to reduce the amount of damages; and whether he prove the justification or not, he may give in evidence the mitigating circumstances.

In action to recover property distrained for damage — answer need not set forth title.

SEC. 72. In an action to recover the possession of property distrained, doing damage, an answer that the defendant or person by whose command he acted was lawfully possessed of the real property upon which the distress was made, and that the property distrained was at the time doing damage thereon, shall be good without setting forth the title to such real property.

What causes of action may be joined in same action.

SEC. 73. The plaintiff may unite in the same complaint several causes of action, whether they be such as have been heretofore denominated legal or equitable or both, where they arise out of—

1. The same transaction or transactions connected with the same subject of action;
2. Contract, express or implied;
3. Injuries with or without force to person and property, or either; or,
4. Injuries to character; or,
5. Claims to recover real property with or without damages for the withholding thereof, and the rents and profits of the same; or,
6. Claims to recover personal property with or without damages for the withholding thereof; or,
7. Claims against a trustee by virtue of a contract, or by operation of law.

To what such causes must belong.

SEC. 74. But the causes of action so united must all belong to one of these classes, and must affect all the parties to the action, and not require different places of trial, and must be stated respectively [separately.]

Allegation not denied when to be deemed true.

SEC. 75. Every material allegation of the complaint not controverted by the answer, as prescribed in section 54, and every material allegation of new matter in the answer constituting a counter claim, not controverted by the reply, as prescribed in section 59, shall, for the purposes of the action, be taken as true.

What matters deemed controverted without reply.

SEC. 76. But the allegation of new matter in the answer, not relating to a counter claim, or of new matter in a reply, is to be deemed controverted by the adverse party as upon a direct denial or avoidance, as the case may require.

Material variances—how provided for.

SEC. 77. No variance between the allegation in a pleading and the proof shall be deemed material, unless it shall actually mislead the adverse party to his prejudice in maintaining his action or defence upon its merits. Wherever it shall be alleged that a party has been so misled, that fact shall be proved to the satisfaction of the court, and in what respect he has been misled, and thereupon the court may order the pleading to be amended upon such terms as may be just.

Immaterial variances—how provided for.

SEC. 78. Where the variance is not material as provided in the last section, the court may direct the fact to be found in accordance with the evidence, or may order an immediate amendment without costs.

What to be deemed a variance.

SEC. 79. When, however, the allegation of the cause of action or defence to which the proof is directed, is unproved, not in some particular or particulars only, but in its entire scope and meaning, it shall not be deemed a case of variance within the last two sections, but a failure of proof.

Amendments of course and after demurrer.

SEC. 80. Any pleading may be once amended by the party of course without costs, and without prejudice to the proceeding already had, at any time before the period for answering it expires, or it can be so amended at any time within twenty days after the service of the answer or demurrer to such pleading, unless it be made to appear to the court that it was done for the purpose of delay, and the plaintiff or defendant will thereby lose the benefit of a term or circuit for which it is or may be noticed, and if it appear to the court, that such amendment was made for that purpose, the same may be stricken out and such terms imposed as to the court may seem just. In such case a copy of the amended pleading must be served on the adverse party. After the decision of a demurrer, either at a general or special term, the court may, in its discretion, if it appear that the demurrer was interposed in good faith, allow the party to plead on such terms as may seem just. If the demurrer be allowed for the cause mentioned in the 5th sub-division of section 49, the court may, in its discretion, and upon such terms as may be just, order the action to be divided into as many

actions as may be necessary to the proper determination of the cause of action therein mentioned.

Amendments by the court.

SEC. 81. The court may, before or after judgment, in furtherance of justice, and upon such terms as may be proper, amend any pleading or proceedings, by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect, or by inserting other allegations material to the case; or when the amendment does not change substantially the claim or defence, by conforming the pleading or proceeding to the facts proved.

General control of court over proceeding.

SEC. 82. The court may likewise in its discretion, and upon such terms as may be just, allow an answer or reply to be made, or other act to be done, after the time limited by this act, or by an order enlarge such time; and may also in its discretion and upon such terms as may be just, at any time within one year after notice thereof, relieve a party from a judgment, order or other proceeding taken against him through his mistake, inadvertance or surprise, or excusable neglect, and may supply an omission in any proceeding; and whenever any proceeding taken by a party fails to conform in any respect to the provisions of this code, the court may in like manner and upon like terms, permit an amendment of such proceeding so as to make it conformable thereto.

Suing a party by fictitious name, when allowed.

SEC. 83. When the plaintiff shall be ignorant of the name of a defendant, such defendant may be designated in any pleading or proceeding by any name; and when his true name shall be discovered, the pleading or proceeding may be amended accordingly.

No error or defect to be regarded unless it affects substantial rights.

SEC. 84. The court shall, in every stage of an action, disregard any error or defect in the pleadings or proceedings, which shall not affect the substantial rights of the adverse party; and no judgment shall be reversed or affected by reason of such error or defect.

Supplemental complaints, answer and reply.

SEC. 85. The plaintiff and defendant respectively may be allowed, on motion, to make a supplemental complaint, answer or reply, alleging facts material to the case, occurring after the former complaint, demur or reply, or of which the party was ignorant when his former pleading was made.

No person to be arrested except as prescribed by this act.

SEC. 86. No person shall be arrested in a civil action except as prescribed by this act; but this provision shall not apply to proceedings for contempts.

Cases in which defendant may be arrested.

SEC. 87. The defendant may be arrested, as hereinafter prescribed, in the following cases:

1. In an action for the recovery of damages, on a cause of action not arising out of contract where the defendant is not a resident of the state or is about to remove therefrom, or where the action is for an injury to person or character, or for injuring, or for wrongfully taking, detaining, or converting property.

2. In an action for a fine or penalty, or for money received, or for property embezzled, or fraudulently misapplied by a public officer, or by an attorney, solicitor, or counselor, or by an officer or agent of a corporation or banking association, in the course of his employment as such, or by any factor, agent, broker, or any person in a fiduciary capacity, or for any misconduct or neglect in office, or in a professional employment.

3. In an action to recover possession of personal property unjustly detained, where the property, or any part thereof, has been concealed, removed or disposed of, so that it cannot be found or taken by the sheriff.

But no female shall be arrested in any action except for a wilful injury to person, character or property.

Order for arrest--by whom made.

SEC. 88. An order for the arrest of the defendant must be obtained from a judge of the court in which the action is brought, or from a county judge, or court commissioner.

Affidavit to obtain order.

SEC. 89. The order may be made where it shall appear to the judge or commissioner, by the affidavit of the plaintiff, or of any other person, that a sufficient cause of action exists, and that the case is one of those mentioned in section 87.

Security by plaintiff before order for arrest.

SEC. 90. Before making the order, the judge or commissioner shall require a written undertaking on the part of the plaintiff, with or without sureties, to the effect that, if the defendant recover judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the arrest, not exceeding the sum specified in the undertaking, which shall be at least one hundred dollars. If the undertaking be executed by the plaintiff without sureties, he shall annex thereto an affidavit that he is a resident and householder or freeholder within the state, and worth double the sum specified in the undertaking, above all his debts and liabilities.

Order, when made and its form.

SEC. 91. The order may be made to accompany the summons, or at any time afterwards before judgment. It shall

require the sheriff of the county, where the defendant may be found, forthwith to arrest him, and hold him to bail in a specified sum, and to return the order at a time and place therein mentioned, to the plaintiff or attorney by whom it shall be subscribed or endorsed.

Affidavit and order to be delivered to the sheriff and copy served on defendant.

SEC. 92. The affidavit and order of arrest shall be delivered to the sheriff, who, upon arresting the defendant, shall deliver to him a copy thereof.

Arrest, how made.

SEC. 93. The sheriff shall execute the order, by arresting the defendant, and keeping him in custody until discharged by law; and may call the power of the county to his aid in the execution of the arrest as in case of process.

Defendant to be discharged on bail or deposit.

SEC. 94. The defendant, at any time before execution, shall be discharged from the arrest, either upon giving bail, or upon depositing the amount mentioned in the order of arrest, as provided in this chapter.

Bail, how given.

SEC. 95. The defendant may give bail, by causing a written undertaking to be executed by two or more sufficient bail, stating the places of residence and occupations, to the effect that the defendant shall, at all times, render himself amenable to the process of the court during the pendency of the action, and to such as may be issued to enforce the judgment therein; or if he be arrested for the cause mentioned in the third sub-division of section 57, an undertaking to the same effect as that provided by section 119.

Surrender of defendant.

SEC. 96. At any time before a failure to comply with their undertaking, the bail may surrender the defendant in their exoneration, or he may surrender himself to the sheriff of the county where he was arrested, in the following manner:

1. A certified copy of the undertaking of the bail shall be delivered to the sheriff, who shall detain the defendant in his custody thereon, as upon an order of arrest, and shall by a certificate in writing acknowledge the surrender.

2. Upon the production of a copy of the undertaking and sheriff's certificate, a judge of the court or county judge, or court commissioner, may, upon a notice to the plaintiff, of eight days, with a copy of the certificate, order that the bail be exonerated; and on filing the order and the papers used on such application, they shall be exonerated acordingly.

But this section shall not apply to the arrest for the causes mentioned in the third sub-division of section 87,

so as to discharge the bail from an undertaking given to the effect provided by section 119.

Bail may arrest and surrender.

SEC. 97. For the purpose of surrendering the defendant, the bail, at any time or place before they are finally charged, may themselves arrest him, or by a written authority, endorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so.

Bail, how proceeded against.

SEC. 98. In case of failure to comply with the undertaking, the bail may be proceeded against by action only.

Bail, how exonerated.

SEC. 99. The bail may be exonerated, either by the death of the defendant, or his imprisonment in a state prison, or by his discharge from the obligation to render himself amenable to the porcess, or by his surrender to the sheriff of the county where he was arrested, in execution thereof, within twenty days after the commencement of the action against the bail, or within such further time as may be granted by the court.

Delivery of undertaking to plaintiff.

SEC. 100. Within the time limited for that purpose, the sheriff shall deliver the order of arrest to the plaintiff or attorney, by whom it is subscribed, with his return endorsed, and a certified copy of the undertaking of the bail. The plaintiff within ten days thereafter, may serve upon the sheriff, a notice that he does not accept the bail, or he shall be deemed to have accepted it, and the sheriff shall be exonerated from liability.

Notice of justification and new undertaking if other bail.

SEC. 101. On the receipt of such notice, the sheriff or defendant may, within ten days thereafter, give to the plaintiff or attorney by whom the order of arrest is subscribed, notice of justification of the same, or other bail, (specifying the places of residence and occupations of the latter) before a judge of the court or county judge, or justice of the peace, at a specified time and place, the time to be not less than five nor more than ten days thereafter. In case other bail be given, there shall be a new undertaking, in the form prescribed in section 95.

Qualification of bail

SEC. 102. The qualifications of bail must be as follows:

1. Each of them must be a resident, and householder or freeholder, within the state.

2. They must each be worth the amount specified in the order of arrest, exclusive of property exempt from execution, but a judge, or a justice of the peace, on justification, may allow more than two bail to justify severally in amounts less than that expressed in the order, if the

whole justification be equivalent to that of two sufficient bail.

How to justify.

SEC. 103. For the purpose of justification, each of the bail shall attend before the judge, or a justice of the peace, at the time and place mentioned in the notice, and may be examined on oath, on the part of the plaintiff, touching his sufficiency, in such manner as the judge or justice of the peace, in his discretion, may think proper. The examination shall be reduced to writing, and subscribed by the bail, if required by the plaintiff.

Allowance of undertaking.

SEC. 104. If the judge or justice of the peace find the bail sufficient, he shall annex the examination to the undertaking, endorse his allowance thereon, and cause them to be filed with the court; and the sheriff shall thereupon be exonerated from liability.

Deposit of money with sheriff.

SEC. 105. The defendant may, at the time of his arrest, instead of giving bail, deposit with the sheriff the amount mentioned in the order. The sheriff shall thereupon give the defendant a certificate of the deposit, and the defendant shall be discharged out of custody.

Payment of money into court by sheriff.

SEC. 106. The sheriff shall, within four days after the deposit, pay the same into court, and shall take from the officer receiving the same two certificates of payment, the one of which he shall deliver to the plaintiff, and the other to the defendant. For any default in making such payment, the same proceedings may be had on the official bond of the sheriff, to collect the sum deposited, as in other cases of delinquency.

Substitution of bail for deposit.

SEC. 107. If money be deposited, as provided in the last two sections, bail may be given and justified upon notice, as prescribed in section 101, any time before judgment; and thereupon the judge before whom the justification is had, shall direct, in the order of allowance, that the money deposited be refunded by the sheriff to the defendant, and it shall be refunded accordingly.

Money deposited—how applied or disposed of.

SEC. 108. Where money shall have been so deposited, if it remain on deposit at the time of an order or judgment for the payment of money to the plaintiff, the clerk shall, under the direction of the court, apply the same in satisfaction thereof, and after satisfying the judgment, shall refund the surplus, if any, to the defendant. If the judgment be in favor of the defendant, the clerk shall refund to him the whole sum deposited, and remaining unapplied.

Sheriff, when liable as bail, and his discharge from liability.

SEC. 109. If after being arrested, the defendant escape or be rescued, or bail be not given or justified, or a deposit be not made instead thereof, the sheriff shall himself be liable as bail. But he may discharge himself from such liability by the giving and justification of bail as provided in sections 101, 102, 103 and 104, at any time before process against the person of the defendant to enforce an order or judgment in the action.

Proceedings on judgment against sheriff

SEC. 110. If a judgment be recovered against a sheriff, upon his liability, as bail, and an execution thereon be returned unsatisfied, in whole or in part, the same proceedings may be had on the official bond of the sheriff to collect the delinquency, as in other cases of delinquency.

Bail liable to sheriff.

SEC. 111. The bail taken upon the arrest, shall, unless they justify, or other bail be given or justified, be liable to the sheriff by action for damages which he may sustain by reason of such omission.

Motion to vacate arrest or reduce bail.

SEC. 112. A defendant arrested may, at any time before the justification of bail, apply, on motion, to vacate the order of arrest, or to reduce the amount of bail.

Affidavits on motion.

SEC. 113. If the motion be made upon affidavit on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavit or other proof, in addition to those on which the order or arrest was made.

Delivery of personal property, when it may be claimed.

SEC. 114. The plaintiff, in an action to recover the possession of personal property, may, at the time of issuing the summons, or at any time before answer, claim the immediate delivery of such property, as provided in this chapter.

Affidavit and its requisites.

SEC. 115. Where a delivery is claimed, an affidavit must be made by the plaintiff, or by some one on his behalf, showing:

1. That the plaintiff is the owner of the property claimed, (particularly describing it,) or is lawfully entitled to the possession thereof, by virtue of a special property therein, the facts in respect to which shall be set forth.

2. That the property is wrongfully detained by the defendant.

3. The alleged cause of the detention thereof, according to his best knowledge, information and belief.

4. That the same has not been taken for a tax, assessment or fine, pursuant to a statute, or siezed under an execution or attachment against the property of the plaintiff, or if so seized, that it is by statute exempt from such seizure; and

5. The actual value of the property.

SEC. 116. The plaintiff may thereupon, by an endorsement in writing upon the affidavit, require the sheriff of the county where the property claimed may be, to take the same from the defendant, and deliver it to the plaintiff. Requisition to sheriff to take and deliver the property.

SEC. 117. Upon the receipt of the affidavit and notice, with a written undertaking, executed by one or more sufficient sureties, approved by the sheriff, to the effect that they are bound in double the value of the property as stated in the affidavit, for the prosecution of the action, for the return of the property to the defendant, if return thereof be adjudged, and for the payment to him of such sum as may for any cause be recovered against the plaintiff, the sheriff shall forthwith take the property described in the affidavit, if it be in the possession of the defendant or his agent, and retain it in his custody. He shall also, without delay, serve on the defendant a copy of the affidavit, notice and undertaking, by delivering the same to him personally, if he can be found, or his agent, from whose possession the property is taken; or, if neither can be found, by leaving them at the usual place of abode of either, with some person of suitable age and discretion. Security on part of the plaintiff and justification.

SEC. 118. The defendant may, within three days after the service of a copy of the affidavit and undertaking, give notice to the sheriff that he excepts to the sufficiency of the sureties. If he fails to do so, he shall be deemed to have waived all objection to them. When the defendant excepts, the sureties shall justify, on notice, in like manner as upon bail on arrest. And the sheriff shall be responsible for the sufficiency of the sureties until the objection to them is either waived as above provided, or until they justify, or new sureties shall be substituted and justify. If the defendant except to the sureties, he cannot reclaim the property as provided in the next section. Exception to sureties and proceedings thereon or on failure to accept.

SEC. 119. At any time before the delivery of the property to the plaintiff, the defendant may, if he do not except to the sureties of the plaintiff, require the return thereof, upon giving to the sheriff a written undertaking, executed by two or more sufficient sureties, to the effect that they are bound, in double the value of the property, as stated in the affidavit of the plaintiff, for the delivery thereof to the sheriff, if such delivery be adjudged, and for the payment to him of such sum as may for any cause be recovered against the defendant. If a return of the Defendant when entitled to re-delivery.

property be not so required within three days after the taking and service of notice to the defendant, it shall be delivered to the plaintiff, except as provided in section 121.

Justification of defendant's securities.

SEC. 120. The defendant's sureties, upon a notice to the plaintiff, of not less than two nor more than six days, shall justify before a judge or justice of the peace, in the same manner as upon bail on arrest; upon such justification the sheriff shall deliver the property to the defendant. The sheriff shall be responsible for the defendant's sureties, until they justify, or until justification is completed, or expressly waived, and may retain the property until that time, but if they, or others in their place, fail to justify at the time and place appointed, he shall deliver the property to the plaintiff.

Qualification and justification of sureties

SEC. 121. The qualification of sureties and their justification shall be as prescribed by sections 102 and 103, in respect to bail upon an order of arrest.

Property, how taken when concealed in building or enclosure.

SEC. 122. If the property or any part thereof be concealed in a building or enclosure, the sheriff shall publicly demand its delivery; if it be not delivered, he shall cause the building or enclosure to be broken open and take the property into his possession; and if necessary he may call to his aid the power of his county.

Property—how kept.

SEC. 123. When the sheriff shall have taken property, as in this chapter provided, he shall keep it in a secure place, and deliver it to the party entitled thereto, upon receiving his lawful fees for taking, and his necessary expenses for keeping the same.

Claim of property by third person and proceedings thereon.

SEC. 124. If the property taken be claimed by any other person than the defendant or his agent, and such person shall make affidavit of his title thereto, and right to the possession thereof, stating the grounds of such right and title, and serve the same upon the sheriff, the sheriff shall not be bound to keep the property, or deliver it to the plaintiff, unless the plaintiff, on demand of him or his agent, shall indemnify the sheriff against such claim by an undertaking, executed by two sufficient sureties, accompanied by their affidavits, that they are each worth double the value of the property, as specified in the affidavit of the plaintiff, and freeholders and householders of the county. And no claim to such property by any other person than the defendant or his agent, shall be valid against the sheriff unless made as aforesaid, and notwithstanding such claim, when so made, he may retain the property a reasonable time to demand such indemnity.

SEC. 125. The sheriff shall file the notice and affidavit with the proceedings thereon, with the clerk of the court in which the action is pending, within twenty days after taking the property mentioned therein. Notice and affidavit—when and where to be filed.

SEC. 126. The writ of injunction may be in the form of an order as prescribed in this act. The order may be made by the court in which the action is brought, or by a judge thereof, or by a county judge or court commissioner, in the cases provided in the next section; and, when made, may be enforced as the order of the court. Injunction may be in the form of an order.

SEC. 127. Where it shall appear by the complaint that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of some act, the commission or continuance of which, during the litigation, would produce injury to the plaintiff, or when, during the litigation, it shall appear that the defendant is doing, or threatens, or is about to do, or procuring or suffering some act to be done in violation of the plaintiff's rights, respecting the subject of the action, and tending to render the judgment ineffectual, a temporary injunction may be granted to restrain such act. And when, during the pendency of an action, it shall appear by affidavit, that the defendant threatens, or is about to remove or dispose of his property with intent to defraud his creditors, a temporary injunction may be granted to restrain such removal or disposition. Injunction in what cases granted.

SEC. 128. The injunction may be granted at the time of commencing the action, or at any time afterwards before judgment, upon its appearing satisfactorily to the court or judge, or court commissioner, by the affidavit of the plaintiff, or of any other person, that sufficient grounds exist therefor. A copy of the affidavit must be served with the injunction. At what time it may be be granted and upon what granted.

SEC. 129. An injunction shall not be allowed after the defendant shall have answered, unless upon notice, or upon an order to show cause; but in such case the defendant may be restrained, until the decision of the court or judge, granting or refusing the injunction. Notice when required—temporary injunction.

SEC. 130. Where no provision is made by statute, as to security upon an injunction, the court or judge or commissioner shall require a written undertaking, on the part of the plaintiff, with or without securities, to the effect that the plaintiff will pay to the party enjoined, such damages, not exceeding an amount to be specified, as he may sustain by reason of the injunction, if the court shall finally Security upon injunction and damages thereon—how ascertained.

decide that the plaintiff was not entitled thereto. The damages may be ascertained by a reference or otherwise, as the court shall direct.

Order to show cause why injunction should not be granted.

SEC. 131. If the court or judge or commissioner deem it proper that the defendant, or any of several defendants, should be heard before granting the injunction, an order may be made, requiring cause to be shown, at a specified time and place, why the injunction should not be granted; and the defendant may, in the meantime, be restrained.

Security upon injunction to suspend business of corporation.

SEC. 132. An injunction to suspend the general and ordinary business of a corporation, shall not be granted, except by the court or judge thereof; nor shall it be granted without due notice of the application therefor, to the proper officers of the corporation, except where the people of this state are a party to the proceeding, unless the plaintiff shall give a written undertaking, executed by two sufficient sureties, to be approved by the court or judge, to the effect, that the plaintiff will pay all damages, not exceeding the sum to be mentioned in the undertaking, which such corporation may sustain, by reason of the injunction, if the court shall finally decide that the plaintiff was not entitled thereto. The damages may be ascertained by a reference, or otherwise, as the court shall direct.

Motion to vacate or modify injunction.

SEC. 133. If the injunction be granted by a judge of the court, or by a county judge, or court commissioner, without notice, the defendant, at any time before the trial, may apply, upon notice, to the judge of the court in which the action is brought, to vacate or modify the same. The application may be made upon the complaint and the affidavit on which the injunction was granted or upon affidavits on the part of the defendant, with or without the answer.

Affidavits on motion.

SEC. 134. If the application be made upon affidavits on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavits or other proofs, in addition to those on which the injunction was granted.

Attachments, when may issue and in what cases.

SEC. 135. In an action for the recovery of money against a corporation created by or under the laws of any other state, government, or country, or against a defendant who is not a resident of this state, or against a defendant who has absconded or concealed himself; or

When the defendant has been guilty of a fraud in contracting the debt, or incurring the obligation for which

the action is brought, or in concealing or disposing of the property, for the taking, detention or conversion of which the action is brought; or

When the defendant has removed or disposed of his property, or is about to do so, with intent to defraud his creditors. The plaintiff, at the time of issuing the summons, or at any time afterwards, may have the property of such defendant attached in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as the plaintiff may recover.

Warrant of attachment and by whom granted.

SEC. 136. A warrant of attachment must be obtained from a judge of the court in which the action is brought or from a county judge or court commissioner.

In what cases warrant may be issued.

SEC. 137. The warrant may be issued whenever it shall appear, by affidavit, that a cause of action exists against such defendant, specifying the amount of the claim, and the grounds thereof, and that the case is one of those mentioned in section 135.

Security on attachment.

SEC. 138. Before issuing the warrant, the judge or commissioner shall require a written undertaking on the part of the plaintiff, with sufficient surety, to the effect that if the defendant recover judgment the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking, which shall be at least two hundred and fifty dollars.

Warrants, to whom directed and what to require.

SEC. 139. The warrant shall be directed to the sheriff of any county in which property of such defendant may be, and shall require him to attach and safely keep all the property of such defendant within his county, or so much thereof as may be sufficient to satisfy the plaintiff's demand, together with costs and expenses; the amount of which must be stated in conformity with the complaint, together with costs and expenses. Several warrants may be issued at the same time to the sheriffs of different counties.

Mode of proceeding in executing warrant.

SEC. 140. The sheriff to whom such warrant of attachment is directed and delivered, shall proceed thereon in all respects in the manner required of him by law, in case of attachments; shall make and return an inventory, and shall keep the property seized by him, or the proceeds of such as shall have been sold, to answer any judgment which may be obtained in such action; and shall, subject to the direction of the court or judge, collect and receive into his possession all debts, credits and effects of the de-

fendant. The sheriff may also take such legal proceedings, either in his own name, or in the name of such defendant, as may be necessary for that purpose, and discontinue the same at such times, and on such terms as the court or judge may direct.

Proceeding in case of perishable property or vessels.

SEC. 141. If any property so seized shall be perishable, or if any part of it be claimed by any other person than such defendant, or if any part of it consist of a vessel, or of any share or interest therein, the same proceedings shall be had in all respects as are provided by law upon attachments.

Interest in corporation and association liable to attachment.

SEC. 142. The right or shares which such defendant may have in the stock of any association or corporation, together with the interest and profits thereon, and all other property in this state of such defendant, shall be liable to be attached and levied upon and sold to satisfy the judgment and execution.

Attachment—how executed on property incapable of manual delivery.

SEC. 143. The execution of the attachment upon any such rights, shares, or any debts or other property incapable of manual delivery to the sheriff, shall be made by leaving a certified copy of the warrant of attachment with the president or other head of the association or corporation, or the secretary, cashier, or managing agent thereof, or with the debtor or individual holding such property, with a notice showing the property levied on.

Certificates of defendants interest to be furnished by corporation.

SEC. 144. Whenever the sheriff shall with a warrant of attachment or execution against the defendant, apply to such officer, debtor or individual for the purpose of attaching or levying upon such property, such officer, debtor or individual shall furnish him with a certificate under his hand, designating the number of rights or shares of the defendant in the stock of such association or corporation, with any dividend or any incumbrance thereon, or the amount and description of the property held by such association, corporation or individual, for the benefit of or debt owing to the defendant. If such officer, debtor or individual refuse to do so, he may be required by the court or judge, to attend before him and be examined on oath concerning the same, and obedience to such order may be enforced by attachment.

Judgment—how satisfied.

SEC. 145. In case judgment be entered for the plaintiff in such action, the sheriff shall satisfy the same out of the property attached by him, if it shall be sufficient for that purpose;

1. By paying over to such plaintiff the proceeds of all sales of perishable property, and of any vessel or share or interest in any vessel sold by him, or of any debts or credits collected by him, or so much as shall be necessary to satisfy such judgment.

By paying over avails of sales of perishable property.

2. If any balance remain due, and an execution shall have been issued on such judgment, he shall proceed to sell under such execution, so much of the attached property, real or personal, except as provided in sub-division four of this section, as may be necessary to satisfy the balance, if enough for that purpose shall remain in his hands; and in case of the sale of any rights or shares, in the stock of a corporation or association, the sheriff shall execute to the purchaser a certificate of sale thereof, and the purchaser shall therenpon have all the rights and privileges in respect thereto, which were had by such defendant.

By issuing execution against attached property.

Rights or shares in corporations, how disposed of.

3. If any of the attached property belonging to the defendant shall have passed out of the hands of the sheriff without having been sold or converted into money, such sheriff shall repossess himself of the same, and for that purpose have all the authority which he had to seize the same under the attachment, and any person who shall wilfully conceal or withhold such property from the sheriff shall be liable to double damages at the suit of the party injured.

Sheriff may repossess himself of all property attached.

4. Until the judgment against the defendant shall be paid, the sheriff may proceed to collect the notes and other evidence of debt, and the debts that may have been seized or attached under the warrant of attachment, and to prosecute any bond he may have taken in the course of such proceedings, and apply the proceeds thereof to the payment of the judgment.

Sheriff may collect notes and accounts attached.

When the judgment and all costs of the proceedings shall have been paid, the sheriff upon reasonable demand shall deliver over to the defendant the residue of the attached property or the proceeds thereof.

SEC. 146. The actions herein authorized to be brought by the sheriff, may be prosecuted by the plaintiff or under his direction, upon the delivery by him to the sheriff of an undertaking executed by two sufficient sureties, to the effect, that the plaintiff will indemnify the sheriff from all damages, costs and expenses on account thereof, not exceeding two hundred and fifty dollars in any one action. Such sureties shall, in all cases, when required by

When actions to recover note, &c., attached, may be prosecuted by the plaintiff in the action in which the attachment issued.

the sheriff, justify by making an affidavit, that each is a householder and worth double the amount of the penalty of the bond over and above all demands and liabilities.

Bond to sheriff on attachment—how disposed of on judgment for defendant.

SEC. 147. If the foreign corporation, or absent, or absconding, or concealed defendant, recover judgment against the plaintiff in such action, any bond taken by the sheriff, except such as are mentioned in the last section, all the proceeds of sales, and moneys collected by him, and all the property attached remaining in his hands, shall be delivered by him to the defendant, or his agent, on request, and the warrant shall be discharged, and the property released therefrom.

Discharge of attachment and return of property or its proceeds to defendant.

SEC. 148. Whenever the defendant shall have appeared in such action, he may apply to the officer who issued the attachment, or to the court, for an order to discharge the same; and if the same be granted, all the proceeds of sales, and moneys collected by him, and all the property attached remaining in his hands, shall be delivered or paid by him to the defendant or his agent, and released from the attachment.

Undertaking on the part of defendant in such cases.

SEC. 149. Upon such application, the defendant shall deliver to the court, or officer, an undertaking, executed by at least two sureties, resident, and freeholders in this state, approved by such court or officer, to the effect that the sureties will, on demand, pay to the plaintiff the amount of the judgment that may be recovered against the defendant in the action, not exceeding the sum specified in the undertaking, which shall be at least double the amount claimed by the plaintiff in his complaint.

When and how sheriff to return warrant.

SEC. 150. When the warrant shall be fully executed or discharged, the sheriff shall return the same with his proceedings thereon, to the court in which the action was brought.

Sheriff's fees.

SEC. 151. The sheriff shall be entitled to the same fees and compensation for services, and the same disbursements under this title as are allowed by law for like services in other cases.

Motion to set aside attachment for insufficiency and affidavits and proceedings for that purpose.

SEC. 152. The defendant may, at any time before the time to answer expires, make a motion before the circuit judge of the proper circuit, to set aside or discharge the attachment, on the ground that sufficient cause for the granting of the same did not exist. Such motion may be made upon the affidavit for the attachment or additional affidavits, on the part of the defendant, controverting the grounds upon which the attachment was issued, and in

case the defendant uses additional affidavits, the plaintiff may use additional affidavits, on his part, to sustain the same, and the plaintiff may, on reasonable notice for that purpose given, require the defendant or other person to appear on the hearing of such motion, and be examined orally, touching the grounds upon which said attachment was issued; and if the defendant neglect or refuse to attend as required, the motion to discharge the attachment shall be denied.

Powers of court as to receivers.

SEC. 153. A receiver may be appointed;

1. Before judgment, on the application of either party, when he establishes an apparent right to property which is the subject of the action, and which is in the possession of an adverse party, and the property, or its rents and profits, are in danger of being lost or materially injured or impaired.

2. After judgment to carry the judgment into effect.

3. After judgment to dispose of the property according to the judgment or to preserve it during the pendancy of an appeal; or when an execution has been returned unsatisfied and the judgment debtor refuses to apply his property in satisfaction of the judgment.

4. In the cases provided in this code, and by special statutes, when a corporation has been dissolved, or is insolvent or in imminent danger of insolvency, or has forfeited its corporate rights.

5. In such other cases as are now provided by law, or may be in accordance with the existing practice, except as otherwise provided in this act.

Deposit of money or other property in court.

SEC. 154. When it is admitted by the pleading or examination of a party, that he has in his possession or under his control any money or other thing capable of delivery, which being the subject of the litigation, is held by him as trustee for another party, or which belongs, or is due to another party, the court may order the same to be deposited in court, or delivered to such party with or without security, subject to the further direction of the court.

Court may order property or money deposited, to be delivered or conveyed, or may pass title to real estate by judgment.

SEC. 155. Whenever in the exercise of its authority, a court shall have ordered the deposit, delivery or conveyance of money or other property, and the order is disobeyed, the court, besides punishing the disobedience as for contempt, may make an order requiring the sheriff to take the money or property, and deposit, deliver or convey it in conformity with the direction of the court, or the court may pass title to real estate by its judgment, with-

out conveyance, in like manner, as may now be done by decree.

When answer admits part of plaintiff's claim, court on motion, may order defendant to satisfy that part.

SEC. 156. When the answer of the defendant admits part of the plaintiff's claim to be just, the court on motion, may order such defendant to satisfy that part of the claim, and may enforce the order, as it enforces a provisional remedy.

Judgment—what.

SEC. 157. A judgment is the final determination of the rights of the parties in the action.

Judgment on failure of defendant to answer.

SEC. 158. Judgment may be had if the defendant fail to answer the complaint, as follows:

Action on contract.

1. In any action arising on contract for the recovery of money only, the plaintiff may file with the clerk proof of personal service of the summons and complaint on one or more of the defendants, or of the summons, according to the provisions of section 35, and that no answer has been received. The clerk shall thereupon enter judgment for the amount mentioned in the summons against the defendant or defendants, or against one or more of several defendants, in the cases provided for in section 41. But if the complaint be not sworn to, and such action is on an instrument for the payment of money only, the clerk, on its production to him, shall assess the amount due to the plaintiff thereon; and in other cases shall ascertain the amount which the plaintiff is entitled to recover in such action from his examination under oath, or other proof, and enter the judgment for the amount so assessed or ascertained. In case the defendant give notice of appearance in the action, he shall be entitled to five days notice of the time and place of such assessment.

In other actions.

2. In other actions, the plaintiff may, upon the like proof, apply to the court after the expiration of the time for answering, for the relief demanded in the complaint. If the taking an account or the proof of any fact be necessary to enable the court to give judgment or to carry the judgment into effect, the court may take the account, or hear the proof, or may in its discretion, order a reference for that purpose. And where the action is for the recovery of money only, or of specific, real or personal property, with damages for the withholding thereof, the court may order the damages to be assessed by a jury, or if the examination of a long account be involved, by a

reference as above provided. In case the defendant give notice of appearance in the action before the expiration of the time for answering, he shall be entitled to eight days notice of the time and place of application to the court for the relief demanded by the complaint,

Judgment on frivolous demurrer, answer or reply.

3. In actions where the service of the summons was by publication, the plaintiff may in like manner apply for judgment, and the court shall thereupon cause proof to be taken of the demand mentioned in the complaint, and in case the defendant is a non-resident, shall cause the plaintiff or his agent to be examined on oath, as to any payment that may have been made to such plaintiff, or to any one for his use on account of such demand, and may render judgment for the amount which he is entitled to recover, and before entering judgment, the court may, in its discretion, require the plaintiff to cause to be filed satisfactory security to abide the order of the court, touching the restitution of any estate or effects which may be directed by such judgment to be transferred or delivered, or the restitution of any money that may be collected under or by virtue of such judgment, in case the defendant or his representatives, shall apply and be admitted to defend the action and shall succeed in such defence.

Cases of publication of summons.

SEC. 159. If a demurrer, answer or reply be frivolous, the party prejudiced thereby, upon a previous notice of five days, may apply to a judge of the court, either in or out of the court, for judgment thereon, and judgment may be given accordingly.

The different kinds of issue.

SEC. 160. Issues arise upon the pleadings when a fact or conclusion of law is maintained by the one party, and controverted by the other; they are of two kinds:

1. Of law.
2. Of fact.

Issue of law.

SEC. 161. An issue of law arises upon a demurrer to the complaint, answer or reply, or to some part thereof.

Issue of fact.

SEC. 162. An issue of fact arises,

1. Upon a material allegation in the complaint controverted by the answer; or,

2. Upon new matter in the answer controverted by the reply; or,

3. Upon new matter in the reply, except an issue of law is joined thereon.

Issue of both law and fact, the issue of law to be first tried

SEC. 163. Issues both of law and of fact may arise upon different parts of the pleadings in the same action; in such cases the issue of law must be first tried, unless the court otherwise direct.

Trial defined.

SEC. 164. A trial is the judicial examination of the issues between the parties, whether they be issues of law or of fact.

Issues—how tried.

SEC. 165. An issue of law must be tried by the court, unless it be referred as provided in sections 180 and 181. An issue of fact in an action for the recovery of money only, or of specific, real or personal property, or for a divorce from the marriage contract, on the ground of adultery, must be tried by a jury, unless a jury trial be waived, as provided in sections 176 and 181. Every other issue is triable by the court, which, however, may order the whole issue, or any specific question of fact involved therein, to be tried by a jury, or may refer it as provided in sections 180 and 181.

Either party may give notice of trial and note of issue.

SEC. 166. At any time after issue, and at least ten days before the court, either party may give notice of trial. The party giving the notice shall furnish the clerk, at least four days before the court, with a note of the issue, containing the title of the action, the names of the attorneys, and the time when the last pleading was served; and the clerk shall thereupon enter the cause upon the calendar, according to the date of the issue.

Order of disposing of issues on the calendar.

SEC. 167. The issues on the calendar shall be disposed of in the following order, unless for the convenience of parties or the dispatch of business, the court shall otherwise direct:

1. Issues of fact to be tried by a jury.
2. Issues of fact to be tried by the court.
3. Issues of law.

Party noticing for trial may proceed with the case.

SEC. 168. Either party giving the notice may bring the issue to trial, and in the absence of the adverse party, unless the court, for good cause, otherwise direct, may proceed with his case, and take a dismissal of the complaint, or a verdict or a judgment as the case may require. A separate trial between the plaintiff and any of the several defendants may be allowed by the court whenever in its opinion justice will be thereby promoted.

Separate trials.

Court to be furnished with copy pleadings.

SEC. 169. When the issue shall be brought to trial by the plaintiff, he shall furnish the court with a copy of the summons and pleadings, with the offer of the defendant, if any shall have been made. When the issue shall be brought to trial by the defendant, and the plaintiff shall neglect or refuse to furnish the court with a copy of the summons and pleadings, and the offer of the defendant, the same may be furnished by the defendant.

SEC. 170. A general verdict is that by which the jury pronounce generally upon all or any of the issues either in favor of the plaintiff or defendant. A special verdict is that by which the jury find the facts only, leaving the judgment to the court. General or special verdict defined.

SEC. 171. In an action for the recovery of specific personal property, if the property have not been delivered to the plaintiff, or the defendant by his answer, claim a return thereof, the jury shall assess the value of the property, if their verdict be in favor of the plaintiff, or if they find in favor of the defendant, that he is entitled to a return thereof, and may at the same time assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the detention, or taking and withholding such property. In every action for the recovery of money only, or specific real property, the jury in their discretion may render a general or special verdict. In all other cases the court may direct the jury to find a special verdict in writing upon all or any of the issues, and in all cases may instruct them, if they render a general verdict, to find upon particular questions of fact, to be stated in writing, and may direct a written finding thereon. The special verdict or finding shall be filed with the clerk and entered upon the minutes. When jury may render general or special verdict, and when court may direct special finding.

SEC. 172. Where a special finding of facts shall be inconsistent with the general verdict, the former shall control the latter, and the court shall give judgment accordingly. Special findings shall control general verdict.

SEC. 173. When a verdict is found for the plaintiff in an action of the recovery of money, or for the defendant, when a set off for the recovery of money is established beyond the amount of the plaintiff's claim as established, the jury must also assess the amount of the recovery; they may also under the direction of the court, assess the amount of the recovery when the court give judgment for the plaintiff on the answer. If a set off established at the trial exceed the plaintiff's demand, so established, judgment for the defendant must be given for the excess; or if it appear that the defendant is entitled to any other affirmative relief, judgment must be given accordingly. Jury to assess the damages in certain cases.

SEC. 174. Upon receiving a verdict the clerk shall make an entry in his minutes, specifying the time and place of the trial, the names of the jurors and witnesses, the verdict, and either the judgment rendered thereon or Entry of the verdict.

an order that the cause be reserved for argument or further consideration. If a different direction be not given by the court, the clerk must enter judgment in conformity with the verdict. If an exception be taken it may be reduced to writing at the time, or entered in the judge's minutes, and afterwards settled as provided by the rules of the court, and then stated in writing, in a case or separately, with so much of the evidence as may be material to the questions to be raised, but need not be sealed or signed, nor need a bill of exceptions be made. If the exceptions be in the first instance stated in a case, and it be afterwards necessary to separate them, the separation may be made under the direction of the court or a judge thereof. The judge who tries the cause may, in his discretion, entertain a motion to be made on his minutes, to set aside a verdict, and grant a new trial, upon exceptions, or for insufficient evidence, or for excessive damages; but such motions, in actions hereafter tried, if heard upon the minutes, can only be heard at the same term or circuit, at which the trial is heard.

Motion for a new trial.

When such motion is heard and decided upon the minutes of the judge, and an appeal is taken from the decision, a case or exceptions must be settled in the usual form upon which the argument of the appeal must be had.

Motion for a new trial—when to be heard.

SEC. 175. A motion for a new trial on a case or exceptions or otherwise, and an application for judgment on a special verdict or case reserved for argument or further consideration, or to set aside the report of referees, must, in the first instance, be heard and decided at the circuit, at special term, or at a regular term.

Trial by jury, how waived.

SEC. 176. Trial by jury may be waived by the several parties, to an issue of fact, in actions on contract, with the assent of the court, in other actions, in the manner following:

1. By failing to appear at the trial.
2. By written consent, in person, or by attorney, filed with the clerk.
3. By oral consent in open court, entered in the minutes.

On trial by the court, judgment to be given in twenty days—and what decision to contain.

SEC. 177. Upon a trial of a question of fact by the court, its decision shall be given in writing, and filed with the clerk within twenty days after the court at which the trial took place. Judgment upon the decision shall be entered accordingly, and the judge shall state in his decision separately:

1. The facts found by him, and
2. His conclusions of law thereon.

SEC. 178. For the purpose of an appeal, either party may except to a decision on a matter of law, arising on such trial, within ten days after notice, in writing, of the judgment in the same manner and with the same effect as upon a trial by jury. And either party desiring a review upon the evidence appearing upon the trial, either of the questions of fact or of the law, may, within ten days after the notice of such judgment, or within the time prescribed by the rules of the court, make a case or exceptions in like manner as upon trials by jury; except that the judge, in settling the matter, must briefly specify the facts found by him, and his conclusions of law. Exceptions—how and when taken.

SEC. 179. On a judgment for the plaintiff, upon an issue of law, the plaintiff may proceed in the manner prescribed by the first two sub-divisions of section 158, upon the failure of the defendant to answer, where the summons was personally served. If judgment be for the defendant, upon an issue of law, and if taking an account or the proof of any fact be necessary to enable the court to complete the judgment, a reference or assessment by a jury may be ordered, as in that section provided. Proceedings upon judgment on issue of law

SEC. 180. All or any of the issues in the action whether of fact or of law, or both, may be referred upon the written consent of the parties. All issues referrable by consent.

SEC. 181. Where the parties do not consent, the court may, upon the application of either, or of its own motion, except where the investigation will require the decision of difficult questions of law, direct a reference in the following cases: When references may be made by court

1. Where the trial of an issue of fact shall require the examination of a long account on either side, in which case the referees may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved therein; or

2. Where the taking of an account shall be necessary for the information of the court, before judgment, or for carrying a judgment or order into effect, or

3. Where a question of fact, other than upon the pleadings, shall arise, upon motion or otherwise, in any stage of the action.

SEC. 182. The trial by referees is conducted in the same manner and on similar notice, as a trial by the court; they have the same power to grant adjournments as the court upon such trial. Mode of trial.

Motion to set aside report.

They must state the facts found and the conclusions of law separately, and their decision must be given and may be excepted to and reviewed in like manner, and by a motion before the circuit court to set aside the report upon a case or bill of exceptions, to be settled by the referees as in cases of trial by the court, and on which motion the court may set aside such report or alter or modify the same, and the judgment entered upon such report under direction of the circuit court may be appealed from to the supreme court in like manner as judgments upon motions for a new trial on cases or exceptions as provided in section 175.

When motion made and proceedings for that purpose.

The report of the referees upon the whole issue stands as the decision of the court, and judgment may be entered thereon in the same manner as if the action had been tried by the court, unless either party may desire to make a motion to set aside the report, as herein provided. And in case either party desires to make such a motion, a judge of the circuit court may stay the entry of judgment for twenty days, to enable the party to prepare his case or bill of exceptions, and in case it is prepared, all proceedings on the report shall be stayed until the decision of the circuit court thereon, or the case is set aside or dismissed. When the reference is to report the facts, the report has the effect of a special verdict.

Referees—how chosen.

SEC. 183. In all cases of reference, the parties, except when an infant may be a party, may agree upon a suitable person or persons, not exceeding three, and the reference shall be ordered accordingly; and if the parties do not agree, the court shall appoint one or more referees, not exceeding three, who shall be free from exception.

Judgment may be for or against any of the parties.

SEC. 184. Judgment may be given for or against one or more of several plaintiffs, and for or against one or more of several defendants, and it may determine the ultimate rights of the parties on each side, as between themselves, and may grant to the defendant any affirmative relief to which he may be entitled. In an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others whenever a several judgment may be proper. The court may also dismiss the complaint, with costs in favor of one or more defendants, in case of unreasonable neglect on the part of the plaintiff to serve the summons on other defendants, or to proceed in the cause against the defendant or defendants served.

SEC. 185. The relief granted to the plaintiff, if there be no answer, cannot exceed that which he shall have demanded in his complaint; but in any other case the court may grant him any relief consistent with the case made by the complaint and embraced within the issue.

The relief to be awarded to the plaintiff.

SEC. 186. Whenever damages are recoverable, the plaintiff may claim and recover, if he show himself entitled thereto, any rate of damages which he might have heretofore recovered for the same cause of action.

Rates of damages where damages are recoverable.

SEC. 187. In an action to recover the possession of personal property, judgment for the plaintiff may be for the possession, or for the recovery of possession, or the value thereof in case a delivery cannot be had, and of damages for the detention. If the property have been delivered to the plaintiff and a defendant claim a return thereof, judgment for the defendant may be for a return of the property, or the value thereof, in case a return cannot be had, and damages for taking and withholding the same.

Judgment in action for recovery of personal property

SEC. 188. Judgment upon an issue of law or of fact or upon confession, or upon failure to answer (except where the clerk is authorized to enter the same by the first subdivision of section one hundred and fifty-eight, [158] and by section two hundred and eighty-eight,) shall, in the first instance, be entered upon the direction of a circuit judge, or report of referees, subject to review on the demand of either party, as herein provided.

Judgment to be entered by direction of circuit judge or report of referees.

SEC. 189. The clerk shall keep among the records of the court, a book for the entry of judgments to be called the "judgment book."

Clerk to keep judgment book.

SEC. 190. The judgment shall be entered in the judgment book, and shall specify clearly the relief granted, or other determination of the action.

Judgment to be entered in judgment book

SEC. 191. Unless the party or his attorney shall furnish a judgment roll, the clerk, immediately after entering the judgment, shall attach together and file the following papers, which shall constitute the judgment roll:

Judgment roll, of what composed.

1. In case the complaint be not answered by any defendant, the summons and complaint or copies thereof, proof of service, and that no answer has been received, the report, if any, and a copy of the judgment.

2. In all other cases the summons, pleadings, or copies thereof, and a copy of the judgment, with any verdict or report, the offer of the defendant, exceptions, case, and all orders and papers in any way involving the merits and necessarily affecting the judgment.

Judgment, when and how to be docketed.

SEC. 192. On filing a judgment roll, upon a judgmen directing in whole or in part the payment of money, i may be docketed with the clerk of the circuit court o the county where it was rendered, and in any oth county, upon filing with the clerk of the circuit cou thereof a transcript of the original "docket," and sha be a lien on the real property in the county where th same is docketed, of every person against whom suc judgment shall be rendered, and which he may have t the time of docketing thereof, in the county in which suc real estate is situated, or which he shall acquire at an time thereafter, for ten years from the time of docketin the same, in the county where it was rendered. Bu whenever an appeal from any judgment shall be pending and the undertaking requisite to stay execution on such judgment shall have been given, and the appeal perfected as provided in the code, the court in which such judg ment was recovered, may, on special motion, after notic to the person owning the judgment, on such terms as the shall see fit, direct an entry to be made by the clerk o the docket of said judgment, that the same is "secured on appeal," and thereupon it shall cease, during the pen dency of the appeal, to be a lien on the real property o the judgment debtor, as against purchasers and mortga gees in good faith.

Execution to be issued within two years of course.

SEC. 193. Writs of execution for the enforcement o judgments as now used, are modified in conformity to thi title, and the party in whose favor judgment has bee heretofore or shall hereafter be given, may, at any tim within two years after the entry of judgment, proceed t enforce the same, as prescribed by this title.

After two years to be issued only by leave of court, and leave how obtained.

SEC. 194. After the lapse of two years from the ent of judgment, an execution can be issued only by the leav of the court, upon motion, with personal notice to th adverse party, unless he be absent or non-resident, or ca not be found to make such service, in which case, su service may be made by publication, or in such oth manner as the court shall direct. Such leave shall not given unless it be established by the oath of the party, other satisfactory proof, that the judgment, or some p thereof, remains unsatisfied and due. When the jud ment shall have been rendered in a court of justice of t peace, and docketed in the office of the clerk of the circ court, the application for leave to issue execution must to the court where judgment is docketed.

SEC. 195. Where a judgment requires the payment of money, or the delivery of real or personal property, the same may be enforced in those respects by execution as provided in this title. Where it requires the performance of any other act, a certified copy of the judgment may be served upon the party against whom it is given, or the person or officer who is required to obey the same, and his obedience thereto enforced. If he refuse he may be punished by the court as for a contempt.

Other judgments—how enforced—court may pass title by judgment.

SEC. 196. There shall be three kinds of execution: one against the property of the judgment debtor; another against his person; and the third for the delivery of the possession of real or personal property, or such delivery with damages for withholding the same. They shall be deemed the process of the court, but they need not be sealed nor subscribed, except as prescribed in section 199.

The different kinds of executions.

SEC. 197. Where the execution is against the property of the judgment debtor, it may be issued to the sheriff of any county where the judgment is docketed. Where it requires the delivery of real or personal property, it must be issued to the sheriff of the county where the property or some part thereof is situated. Executions may be issued at the same time to different counties. Real property adjudged to be sold, must be sold in the county where it lies, by the sheriff of that county or by a referee appointed by the court for that purpose, and thereupon the sheriff or referee, shall execute a conveyance to the purchaser, which conveyance shall be effectual to pass the rights and interest of the parties adjudged to be sold.

To what counties execution may be issued.

SEC. 198. If the action be one in which the defendant might have been arrested as provided in section 87 and section 89, an execution against the person of the judgment debtor may be issued to any county within the jurisdiction of the court, after the return of an execution against his property unsatisfied in whole or in part.

Execution against the person, in what cases and when.

SEC. 199. The execution must be directed to the sheriff or coroner, when the sheriff is a party, or interested subscribed by the party issuing it or his attorney, and must intelligibly refer to the judgment, stating the court, the county where the judgment roll or transcript is filed, the names of the parties, the amount of the judgment, if it be for money, and the amount actually due thereon, and the time of docketing in the county to which the execution is issued, and shall require the officer substantially as follows:

Form of execution.

1. If it be against the property of the judgment debtor, it shall require the officer to satisfy the judgment out of the personal property of such debtor, and if sufficient personal property cannot be found out of the real property belonging to him on the day when the judgment was docketed in the county or at any time thereafter.

2. If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property, or trustees, it shall require the officer to satisfy the judgment out of such property.

3. If it be against the person of the judgment debtor, it shall require the officer to arrest such debtor and commit him to the jail of the county, until he shall pay the judgment, or be discharged according to law.

4. If it be for the delivery of the possession of real or personal property, it shall require the officer to deliver the possession of the same, particularly describing it, to to the party entitled thereto, and may, at the same time, require the officer to satisfy any costs, damages, or rents and profits, recovered by the same judgment, out of the personal property of the party against whom it was rendered, and the value of the property for which the judgment was recovered, by the same judgment, out of the personal property of the party against whom it was rendered, and the value of the property for which the judgment was recoverd, to be specified therein, if a delivery thereof cannot be had, and if sufficient personal property cannot be found, then out of the real property belonging to him on the day when the judgment was docketed, or at any time thereafter, and shall, in that respect, be deemed an execution against property.

To be returnable within sixty days.

SEC. 200. The execution shall be returnable within sixty days after its receipt by the officer, to the clerk with whom record of judgment is filed,

Existing laws relating to executions continued, until otherwise provided.

SEC. 201. Until otherwise provided by the legislature, the existing provisions of law, not in conflict with this chapter, relating to executions, and their incidents, the property liable to sale on execution, including the sale and redemption of property, the powers and rights of officers, their duties thereon, and the proceeding to enforce those duties, and the liability of their sureties, shall apply to the executions prescribed by this chapter.

When execution returned unsatisfied, order for discove-

SEC. 202. When an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, issued to the sheriff of the county where

he resides, or if he do not reside in the state, to the sheriff of a county where a judgment roll or a transcript of a justice's judgment for ten dollars or upwards, exclusive of costs, is filed, is returned unsatisfied, in whole or in part, the judgment creditor, at any time after such return is made, is entitled to an order from the judge of the court, or a county judge, or court commissioner of the county to which the execution was issued, requiring such judgment debtor to appear and answer concerning his property before such judge, at a time and place specified in the order, within the county to which the execution was issued. After the issuing of an execution against property, and upon proof by affidavit, of a party or otherwise, to the satisfaction of the court, or a judge thereof, a county judge, or a court commissioner, that any judgment creditor [debtor] residing in the county where such judge or officer resides, has property which he unjustly refuses to apply towards the satisfaction of the judgment, such court or judge may, by an order, require the judgment debtor to appear, at a specified time and place, to answer concerning the same, and such proceedings may thereupon be had for the application of the property of the judgment debtor towards the satisfaction of the judgment, as are provided upon the return of an execution. On an examination under this section, either party may examine witnesses on his behalf, and the judgment debtor may be examined in the same manner as a witness. Instead of the order requiring the attendance of judgment debtor, the judge may, upon proof by affidavit, or otherwise, to his satisfaction, that there is danger of the judgment debtor's leaving the state, or concealing himself, and that there is reason to believe he has property which he unjustly refuses to apply to such judgment, issue a warrant requiring the sheriff of any county where such debtor may be, to arrest him and bring him before such judge.

ry of property allowed; also, when judgment debtor refuses to apply property to satisfy judgment.

SEC. 203. Upon being brought before the judge, he may be examined on oath, and if it then appears that there is danger of the debtor's leaving the state, and that he has property which he has unjustly refused to apply to such judgment, he may be ordered to enter into an undertaking, with one or more sureties, that he will, from time to time, attend before the judge as he shall direct, and that he will not during the pendency of the proceedings, dispose of any portion of his property not exempt from

Manner of proceeding to examine judgment debtor.

execution. In default of entering into such undertaking, he may be committed to prison by warrant of the judge as for a contempt. No person shall, on examination pursuant to this chapter, be excused from answering any question, on the ground that his examination will tend to convict him of the commission of a fraud; but his answer shall not be used as evidence against him in any criminal proceeding or prosecution.

Any debtor may pay execution against his creditor to sheriff.

SEC. 204. After the issuing of execution against property, any person indebted to the judgment debtor, may pay to the sheriff, the amount of his debt, or so much thereof as shall be necessary to satisfy the execution, and the sheriff's receipt shall be a sufficient discharge for the amount so paid.

Examination of debtors or of those having property belonging to them.

SEC. 205. After the issuing or return of an execution against property of the judgment debtor or any one of several debtors in the same judgment, and upon an affidavit, that any person, or corporation has property of such judgment debtor, or is indebted to him in an amount exceeding ten dollars, the judge may, by an order, require such person or corporation, or any officer or member thereof, to appear at a specified time and place, and answer concerning the same. The judge may also, in his discretion, require notice of such proceeding, to be given to any party to the action in such manner as may seem to him proper.

Witness required to testify.

SEC. 206. Witnesses may be required to appear and testify on any proceedings under this chapter, in the same manner as upon the trial of an issue.

Compelling party and witnesses to attend.

SEC. 207. The party or witness may be required to attend before the judge, or before a referee appointed by the court or judge; if before a referee, the examination shall be taken by the referee, and certified to the judge; all examinations and answer before a judge or referee, under this chapter, shall be on oath, except that when a corporation answers, the answer shall be on oath of an officer thereof.

What property may be ordered to be applied to the execution.

SEC. 208. The judge may order any property of the judgment debtor, not exempt from execution, in the hands either of himself or any other person, or due to the judgment debtor, to be applied towards the satisfaction of the judgment, except that the earnings of the debtor for his personal services, at any time within sixty days next preceding the order, can not be so applied, when it is made to appear by the debtor's affidavit, or otherwise, that such

earnings are necessary for the use of a family, supported wholly or in part by his labor.

SEC. 209. The judge may also, by order, appoint a receiver of the property of the judgment debtor, in the same manner and with the like authority, as if the appointment was made by the court, according to section 152 But before the appointment of such receiver, the judge shall ascertain, if practicable, by the oath of the party, or otherwise, whether any other supplementary proceedings are so pending against the judgment debtor; the plaintiff therein shall have notice to appear before him, and shall likewise have notice of all subsequent proceedings in relation to such receivership.

Judge may appoint receiver, and prohibit transfer of property.

No more than one receiver of the property of a judgment debtor shall be appointed. The judge may also by order forbid a transfer or other disposition of the property of the judgment debtor, not exempt from execution and any interference therewith.

SEC. 210. If it appear that a person or corporation, alleged to have property of the judgment debtor, or indebted to him, claims an interest in the property, adverse to him, or denies the debt, such interest or debt shall be recoverable only in an action against such person or corporation by the receiver, but the judge may, by order, forbid a transfer or other disposition of such property or interest till a sufficient opportunity be given to the receiver to commence the action, and prosecute the same to judgment and execution; but such order may be modified or dissolved, by the judge granting the same, at any time, on such security as he shall direct.

Proceedings upon claim of another party to property, or on denial of indebtedness to judgment debtor.

SEC. 211. The judge may, in his discretion, order a reference to a referee agreed upon or approved by him, to report the evidence or the facts.

Reference by judge.

SEC. 212. The judge may allow to the judgment creditor or to any party so examined, whether a party to the action or not, witnesses fees and disbursments, and a fixed sum in addition not exceeding fifteen dollars as costs.

Costs of proceeding.

SEC. 213. If any person, party or witness, disobey an order of the judge or referee duly served, such person, party or witness may be punished by the judge as for a contempt, and in all cases of commitment, under this chapter, the person committed, may, in case of inabilty to perform the act required, or to endure the imprisonment, be discharged from imprisonment by the court or

Disobedience of order, how punished.

judge committing him, or the court in which the judgment was rendered, on such terms as may be just.

Fee bill abolished; allowances given, termed costs.

SEC. 214. All statutes establishing or regulating the costs or fees of attorneys, solicitors and councel in civil actions, and all existing rules and provisions of law restricting or controling the right of a party to agree with an attorney, solicitor, or counsel, for his compensation, are repealed, and hereafter the measure of such compensation shall be left to the agreement, express or implied, of the parties. But there may be allowed to the prevailing party, upon the judgment, certain sums by way of indemnity, for his expenses in the actions, which allowances are in this act termed costs.

When allowed of course to plaintiff.

SEC. 215. Costs shall be allowed of course to the plaintiff, upon a recovery in the following cases:

1. In an action for the recovery of real property, or when a claim of title to real property arises on the proceedings, or is certified by the court to have come in question at the trial.

2. In an action to recover the possession of personal property.

3. In the actions of which, according to law, a court of justice of the peace has no jurisdiction.

4. In an action for the recovery of money, where the plaintiff shall recover fifty dollars or more. But in an action for assault, battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation or seduction, if the plaintiff recover less than fifty dollars damages, he shall recover no more costs than damages; and in an action to recover the possession of personal property, if the plaintiff recover less than fifty dollars damages, he shall recover no more costs than damages, unless he recovers also property, the value of which, with the damages, amounts to fifty dollars.

Such value must be determined by the jury, court or referee, by whom the action is tried.

When several actions shall be brought on one bond, recognizance, promissory note, bill of exchange, or other instrument, in writing, or in any other case, for the same cause of action, against several parties who might have been joined as defendant in the same action, no costs, other than disbursements, shall be allowed to the plaintiff, in more than one of such actions, which shall be at his election, provided that the party or parties proceeded against in such other action or actions, shall, at the time

of the commencement of the previous action or actions have been within this state, and not secreted.

SEC. 216. Costs shall be allowed of course to the defendant in the actions mentioned in the last section, unless the plaintiff be entitled to costs therein. When allowed to defendants.

SEC. 217. In other actions costs may be allowed or not, in the discretion of the court. When allowed, to either party in the discretion of the court.

Where there are several defendants not united in interest, and making separate defences by separate answers, and the plaintiff fails to recover judgment against all, the court may award costs to such of the defendants as have judgment in their favor, or any of them.

In the following cases the costs of the appeal shall be in the discretion of the court:

1. Where a new trial shall be ordered;

2. Where a judgment shall be affirmed in part and reversed in part.

SEC. 218. When allowed, costs shall be as follows: Amount of costs allowed.

1. To the plaintiff for all proceedings before notice of trial (including judgment when entered), in an action where judgment upon failure to answer may be had without application to court, seven dollars. In an action when judgment can only be taken on application to the court, twelve dollars. For all subsequent proceedings before trial, seven dollars.

2. To the defendant, for all proceedings before notice of trial, five dollars; for all subsequent proceedings before trial, seven dollars.

3. For the trial of issues of law, if separate from the trial of issues of fact, to the plaintiff five dollars; to the defendant five dollars.

4. For the trial of issues of fact, if separate from the trial of the issues of law, to the plaintiff five dollars; to the defendant five dollars.

5. For the trial of issues of fact and of law, when tried at the same time, to the plaintiff ten dollars; to the defendant ten dollars.

6. To either party on appeal to the supreme court, fifteen dollars. Appeals from orders to the circuit court to either party, five dollars.

7. The plaintiff may, in all cases, recover costs and disbursments in suits against non-residents when he has attached real estate without regard to the amount of the recovery, at and after rates allowed by this act.

Additional allowance of a per centage on the recovery or claim.

SEC. 219. In addition to these allowances, if the action be for the recovery of money, or of real or personal property, and a trial has been had, the court may, in difficult or extraordinary cases, make an allowance of not more than ten per cent. on the recovery or claim, as in the next section prescribed, for any amount not exceeding five hundred dollars; and not more than five per cent. for any additional amount.

Such allowance may likewise be made upon the recovery of judgment in any action for the partition of real property, or for the foreclosure of a mortgage, or in which a warrant of attachment has been issued, or for the construction of a will or other instrument in writing, and on proceedings to compel the determination of claims to real property, and also in any case where the prosecution or defence has been unreasonably or unfairly conducted.

Per centage, how computed.

SEC 220. These rates shall be estimated as follows:

1. If the plaintiff recover judgment, it shall be upon the amount of money or the value of the property recovered, or claimed, or attached, or affected by the construction of the will, or sought to be partitioned, or the amount found due upon the mortgage, in an action for foreclosure.

2. If the defendant recover judgment, it shall be upon the amount of money, or the value of the property claimed by the plaintiff, or attached, or affected by the construction of the will, or if the defendant's interest in property sought to be partitioned or the amount claimed in an action for foreclosure, such amount of value must be determined by the jury, court or referees, by whom the action is tried, or judgment rendered, or the commissioners appointed to make partition in an action therefor.

Interest on verdict or report, when allowed.

SEC. 221. When the judgment is for the recovery of money, interest from the time of the verdict or report until judgment be finally entered, shall be computed by the clerk, and added to the costs of the party entitled thereto.

Costs, how to be inserted in judgment.

SEC. 222. The clerk shall insert in the entry of judgment, on the application of the prevailing party, upon two days' notice to the other, the sum of the charges for costs, as above provided, and the necessary disbursements and fees of officers allowed by law, including the compensation of referees, and the expense of printing the papers upon any appeal. The disbursements shall be stated in detail, and verified by affidavits, which shall be filed.

SEC. 223. The fees of referees shall be three dollars to each per day spent in the business of the reference; but the parties may agree in writing upon any other rate of compensation. Referees' fees.

SEC. 224. When an application shall be made to a court or referees, to postpone a trial, the payment, to the adverse party, of a sum not exceeding ten dollars, besides the fees of witnesses, may be imposed, as the condition of granting the postponement. Costs on postponement of trial.

SEC. 225. Costs may be allowed on a motion, in the discretion of the court, not exceeding ten dollars. Costs on motion.

SEC. 226. When costs are adjudged against an infant plaintiff, the guardian by whom he appeared in the action shall be responsible therefor, and payment may be enforced by attachment. Costs against infant plaintiff.

SEC. 227. In an action prosecuted or defended by an executor, administrator, trustee of an express trust, or a person expressly authorized by statute, costs shall be recovered, as in an action by and against a person prosecuting or defending in his own right, but such costs shall be chargeable only upon or collected of the estate, fund or party represented, unless the court shall direct the same to be paid by the plaintiff or defendant personally, for mismanagement or bad faith in such action or defence. But this section shall not be construed to allow costs against executors and administrators where they are now exempt by law. Costs in an action by or against an executor, administrator, or trustee of an express trust or a person expressly authorized by statute to sue.

SEC. 228. In actions in which the cause of action shall, by assignment after the commencement of the action, or in any other manner, become the property of a person not a party to the action, such person shall be liable for the costs, in the same manner as if he were a party, and payment thereof may be enforced by attachment. Costs against assignee of cause of action after action brought.

SEC. 229. Upon the settlement, before judgment, of any action mentioned in section 215, no greater sum shall be demanded from the defendant as costs, than at the rate prescribed in section 218. Costs on settlement.

SEC. 230. It shall not be necessary to issue a writ of error to bring up any judgment or order for review before the supreme court, but the same may be reviewed as prescribed by this act by a proceeding which is hereby denominated an appeal, and the parties to such proceeding shall be known as appelant and respondent. Appeals may be taken instead of writs of error.

SEC. 231. An order made out of court, without notice to the adverse party, may be vacated or modified without Orders made out of court,

How vacated or modified.

notice, by the judge who made it, or may be vacated or modified on notice, in the manner in which other motions are made.

Who may appeal.

SEC. 232. Any party aggrieved, may appeal in the cases prescribed in this title.

Appeal, how made.

SEC. 233. An appeal must be made by the service of a notice in writing, on the adverse party, and on the clerk, with whom the judgment or order appealed from is entered, stating the appeal from the same, or some specified part thereof. When a party shall give in good faith notice of appeal from a judgment or order, and shall omit through mistake, to do any other act necessary to perfect the appeal or to stay proceedings, the court may permit an amendment on such terms as may be just

Clerk to transmit papers to appelate court

SEC. 234. Upon an appeal allowed by this act to the supreme court from a judgment, the clerk with whom the notice of appeal is filed, shall at the expense of the appellant, forthwith transmit to the supreme court, the judgment roll, unless the circuit court shall direct a certified copy of the judgment roll to be transmitted, instead of the original, and on an appeal allowed from an order by this act to the supreme court, the clerk with whom the notice of appeal is filed, and the order entered, shall forthwith transmit to the supreme court a certified copy of the order, the notice of appeal, and the papers upon which the order was granted.

What may be reviewed by appelate court.

SEC. 235. Upon an appeal from a judgment, the court may review an intermediate order, involving the merits and necessarily affecting the judgment.

Judgment on appeal.

SEC. 236. Upon an appeal from a judgment or order the supreme court may reverse, affirm or modify the judgment or order appealed from, in the respect mentioned in the notice of appeal, and as to any or all of the parties and may if necessary or proper, order a new trial. When the judgment or order is reversed or modified, the supreme court shall remit its judgment or decision to be enforced accordingly.

In what cases appeal taken to the supreme court.

SEC. 237. Appeals to the supreme court shall be taken from circuit courts, and from county courts in common law cases, and from any court of record having common law jurisdiction where no other court of appeal is provided by law.

Within what time taken.

SEC. 238. Appeals may be taken to the supreme court from judgments in civil actions, within two years from entry thereof; and from orders made by the circuit court within thirty days' after notice of the same.

SEC. 239. The following orders may be carried by appeal to the supreme court:

Appeal from orders, and what orders may be appealed from.

1. An order affecting a substantial right made in such action, when such order in effect determines the action, and prevents a judgment from which an appeal might be taken.

2. A final order affecting a substantial right made in special proceedings, or upon a summary application in an action after judgment.

3. When an order grants or refuses, continues or modifies a provisional remedy, or grants, refuses or dissolves an injunction or attachment, when it grants or refuses a new trial, or when it sustains or over-rules a demurrer: or

4. When it involves the merits of an action, or some part thereof.

SEC. 240. No appeal shall be taken to the supreme court from an order made at chambers, unless the same shall be affirmed by the circuit court; and from the order of said court, affirming, setting aside, or altering the same, an appeal may be taken, provided such order is one of those enumerated in section two hundred and thirty-nine of this chapter.

No appeal to supreme court from order at chambers, unless affirmed by circuit court.

SEC. 241. Upon an order made by a circuit judge or court dissolving or discharging an attachment or injunction, the party interested in continuing the same, may give immediate notice of appeal to the opposite party, and tender him a written undertaking with such surety as the judge shall direct, conditioned to pay all costs and damages sustained by such party, in case the appeal be decided in his favor. And thereupon the court may make an order in its discretion, to continue such attachment or injunction in force until the decision on the appeal, unless the respondent shall, at any time pending such appeal, give a written undertaking, with sufficient surety, to the appellant, to abide and perform the judgment in the action, if it shall be in favor of the appellant. But the court shall discharge such order, if it shall appear at any time that such appeal is not diligently prosecuted, and such want of diligence shall be deemed *prima facie* evidence of a breach of the apellants undertaking.

Appeals from orders dissolving or discharging attachment or injunction when taken, and what security.

SEC. 242. Appeals from an order made at chambers, upon notice, may be taken within ten days after written notice of the making of such order; and such appeals shall be taken to a regular or special term of the circuit court. For the purpose of such appeal, either party may

Appeals from orders at chambers to circuit court, and an order for that purpose entered.

require the order to be entered of record by the clerk, and it shall be entered accordingly.

Injunction or attachment not to be dissolved at chambers by any other than a circuit judge.

SEC. 243. No injunction or attachment shall be dissolved at chambers by any other than a circuit judge; but a court commissioner may discharge an attachment, as provided in section 158 of this code.

In any appeal security must be given to pay costs and damages not exceeding 250 dollars.

SEC. 244. To render an appeal effectual for any purpose, a written undertaking must be executed, on the part of the appellant, by at least two sureties, to the effect that the appellant will pay all costs and damages, which may be awarded against him, on the appeal, not exceeding two hundred and fifty dollars; or that sum must be deposited with the clerk, with whom the judgment or order was entered, to abide the event of the appeal. Such undertaking or deposit may be waived by a written consent on the part of the respondent.

On judgment for money security to stay execution.

SEC. 245. If the appeal be from a judgment directing the payment of money, it shall not stay the execution of the judgment, unless a written undertaking be executed on the part of the appellant, by at least two sureties, to the effect that if the judgment appealed from, or any part thereof, be affirmed, the appellant will pay the amount directed to be paid by the judgment or the part of such amount as to which the judgment shall be affirmed, only in part, and all the damages which shall be awarded against the appellant upon the appeal.

If judgment be to deliver documents, they must be deposited.

SEC. 246. If the judgment appealed from direct the assignment or delivery of documents or personal property, the execution of the judgment shall not be stayed by appeal, unless the things requird to be assigned or delivered, be brought into court, or placed in the custody of such officer or receiver as the court shall appoint, or unless the undertaking be entered into on the part of the appellant, by at least two sureties, and in such amount as the court or a judge thereof, or county judge, shall direct, to the effect that the appellant will obey the order of the appellate court upon the appeal.

If to execute conveyance, it must be executed and deposited.

SEC. 247. If the judgment appealed from direct the execution of a conveyance or other instrument, the execution of the judgment shall not be stayed by the appeal, until the instrument shall have been executed and deposited with the clerk with whom the judgment is entered, to abide the judgment of the appellate court.

Security where judg-

SEC. 248. If the judgment appealed from, direct the sale or delivery of possession of real property, the exe-

cution of the same shall not be stayed, unless a written undertaking be executed on the part of the appellant with two sureties, to the effect, that during the possession of such property by the appellant, he will not commit or suffer to be committed, any waste thereon, and that if the judgment be affirmed, he will pay the value of the use and the occupation of the property from the time of the appeal until the delivery of possession thereof, pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court, by which the judgment was rendered, and which shall be specified in the undertaking. When the judgment is for the sale of mortgaged premises, and the payment of a deficiency arising upon the sale, the undertaking shall also provide for the payment of such deficiency.

ment is to deliver property, or for sale of mortgaged premises.

SEC. 249. Whenever an appeal shall be perfected as provided by sections 245, 246, 247, and 248, it shall stay all further proceedings in the court below, upon the judgment appealed from, or upon the matter embraced therein; but the court below may proceed, upon any other matter included in the action and not affected by the judgment appealed from.

Stay of proceedings upon security given.

SEC. 250. The undertakings prescribed by sections 244, 245, 246, and 248, may be in one instrument, or several, at the option of the appellant, and a copy including the names and residence of the sureties must be served on the adverse party, with the notice of appeal, unless a deposit is made as provided in section 244, and notice thereof given.

Undertaking may be in one instrument or several.

SEC. 251. An undertaking upon an appeal, shall be of no effect, unless it be accompained by the affidavit of the sureties, that they are each worth double the amount specified therein. The respondent may, however, except to the sufficiency of the sureties, within ten days after notice of the appeal, and unless they or other sureties justify before a judge of the court below, or a county judge as prescribed by sections 103 and 104, within ten days thereafter, the appeal shall be regarded, as if no undertaking had been given. The justification shall be upon a notice of not less than five days.

Security to be approved and to justify.

SEC. 252. In the cases not provided for in sections 245, 246, 247, 248 and 249, the perfecting of an appeal, by giving the undertaking mentioned in section 244, shall stay proceedings in the court below, upon the judgment appealed from, except that where it directs the sale of

Perishable property may be sold notwithstanding an appeal.

perishable property, the court below may order the property to be sold, and the proceeds thereof be deposited or invested, to abide the judgment of the appelate court.

Undertaking must be filed.

SEC. 253. The undertaking must be filed with the clerk with whom the judgment or order appealed from was entered.

Existing laws repealed and this chapter substituted.

SEC. 254. All statutes now in force, providing for the review of judgments in civil cases, rendered by courts of justice of the peace, whether by appeal or certiorari, are hereby repealed, and hereafter the only mode of reviewing such judgments shall be an appeal as prescribed by this act.

By what courts judgment to be reviewed.

SEC. 255. An appeal from the judgments of such courts, in the cases mentioned in the preceding section, may be taken to the courts that are now authorized to review such judgment, either by appeal or certiorari, in the manner prescribed in this act and in no other manner.

Appeal when taken.

SEC. 256. The appellant shall, within twenty days after judgment, serve a notice of appeal, stating the grounds upon which the appeal is founded. If the judgment is rendered upon process, not personally served, and the defendant did not appear, he shall have twenty days after personal notice of the judgment, to serve the notice of appeal, provided for in this and the next section.

Notice of appeal to be served and costs paid.

SEC. 257. The notice of appeal must, within the same time, be served on the justice, personally, if living, and within the county, or on his clerk, if there be one, and on the respondent, personally, or by leaving it at his residence, with some person of suitable age and discretion, or in case the respondent is not a resident of the county, in the same manner on the attorney or agent, if any, who is a resident of such county, who appeared for him on the trial; and the appellant must, at the time of the service of the notice of appeal, on the justice, pay to him the costs of the action included in the judgment, together with one dollar costs of the return, which shall be restored to him in case the judgment is reversed, and be included in the judgment for costs on reversal.

Security to stay execution

SEC. 258. If the appellant desire a stay of execution of the judgment, he shall give security, as provided in the next section.

Form of undertaking.

SEC. 259. The security shall be a written undertaking, executed by one or more sufficient sureties, approved by the appellate judge, or by the court below, to the effect that if judgment be rendered against the appellant, and

execution thereon be returned unsatisfied in whole or in part, the sureties will pay the amount unsatisfied.

SEC. 260. The delivery of the undertaking to the court below, shall stay the issuing of execution, or if it have been issued, the service of a copy of the undertaking, certified by the court below, upon the officer holding the execution, shall stay further proceedings thereon. Execution, how stayed.

SEC. 261. When by reason of the death of a justice of the peace, or his removal from the county or any other cause, the undertaking on the appeal cannot be delivered to him, it shall be filed with the clerk of the appellate court and notice thereof given to the respondent, or his attorney or agent as provided in section 257, it shall thereupon have the same effect as if delivered to the justice. In case of death of justice undertaking to be filed.

SEC. 262. When by reason of the death of a justice of the peace or his absence from the county or any other cause, the notice of appeal cannot be served as provided by section 256, it may be served by leaving the same with the clerk of the circuit court. Filing in lieu of service of notice of appeal.

SEC. 263. The court below shall thereupon, after ten days, and within thirty days after service of the notice of appeal, make a return to the appellate court of the testimony, proceedings and judgment, and file the same in the appellate court, and may be compelled to do so by attachment. But no justice of the peace shall be bound to make a return unless the fee prescribed by this act be paid on service of the notice of appeal. Return when and how made and compelled

SEC. 264. When a justice of the peace by whom a judgment appealed from was rendered, shall have gone out of office, before a return was ordered, he shall nevertheless make a return, in the same manner, and with the like effect, as if he were still in office. How made if justice be out of office.

SEC. 265. If the return be defective, the appellate court may direct a further or amended return, as often as may be necessary, and may compel a compliance with its order, by attachment. Further return may be ordered.

SEC. 266. If a justice of the peace, whose judgment is appealed from, shall die, become insane, or remove from the state, the appellate court may examine witnesses on oath to the facts and circumstances of the trial or judgment, and determine the appeal as if the facts had been returned by the justice. If he shall have removed to another county within the state, the appellate court may compel him to make the return, as if he were still within the county where the judgment was rendered. If justice be dead, insane, or absent.

Hearing upon return dismissing appeal if not brought in.

SEC. 267. If the return be made, the appeal may be brought to a hearing, at a regular term of the appellate court, upon a notice by either party of not less than eight days. It shall be placed upon the calendar, and continue thereon without further notice, until finally disposed of; but if neither party bring it to a hearing before the end of the second term, the court shall dismiss the appeal unless it continue the same by special order for cause shown.

To be heard on original papers and new trial in what cases.

SEC. 268. The appeal shall be heard on the original papers, and return of the justice containing all the material evidence and his rulings in the cause, in case where the judgment, exclusive of costs, does not exceed fifteen dollars.

But when the judgment shall exceed that sum, (the costs excluded,) and also where the judgment is against the complainant, or in his favor for a sum less than fifteen dollars, exclusive of costs, if he shall make oath at the time of appealing, that he has a valid claim against the defendant, as set forth in his complaint, exceeding the sum of fifteen dollars, as he verily believes, the action shall be tried in the appellate court, as cases originally brought there; but the parties may, by consent appearing on the return of the justice, admit such return or any part thereof, as evidence on the trial of the appeal.

Judgment on appeal and judgment roll.

SEC. 269. Upon the hearing of the appeal, the appelate court shall give judgment according to the justice of the case, without regard to technical errors, or defects, which do not effect the merits. In giving judgment, the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all of the parties, and for errors of law or fact. This section shall only apply to cases where there is no new trial in the appellate court. To every judgment upon an appeal, there shall be annexed the return upon which it was heard, which shall be filed with the clerk of the court, and shall constitute the judgment roll.

Costs how awarded.

SEC. 270. If the judgment be affirmed, costs shall be awarded to the respondent. If it be reversed, costs shall be awarded to the appellant. If it be affirmed in part, the costs, or such part as to the court shall seem just, may be awarded to either party. This section shall apply to cases where there is no new trial in the appellate court.

Ordering restitution.

SEC. 271. If the judgment below, or any part thereof, be collected, and the judgment be afterwards reversed, the appellate court shall order the amount collected to be

restored, with interest, from the time of collection. The order may be obtained upon proof of the facts made at or after the hearing, upon a previous notice of six days.

SEC. 272. If upon an appeal, a recovery be had by one party, and costs be awarded to the other, the appellate court shall set off the one against the other, and render judgment for the balance. Setting off costs against recovery.

SEC. 273. The following fees and costs, and no other, except fees of officers and disbursements, shall be allowed upon appeals: The costs on appeal.

To the appellant, on reversal, five dollars.

To the respondant, on affirmance, five dollars.

To a justice of the peace for his return, one dollar.

If the judgment appealed from be reversed in part, and affirmed as to the residue, the amount of costs allowed to either party, shall be such sum as the appellate court may award, not exceeding five dollars. If the appeal be dismissed for want of prosecution, no costs shall be allowed to either party.

SEC. 274. The same costs, fees and disbursements, shall be allowed to the successful party, in cases of new trial on appeal in the appellate court, as on affirmance or reversal of a judgment. Costs on cases of new trial.

SECTION 275. Parties to a question in difference, which might be the subject of a civil action, may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any court which would have jurisdiction if an action had been brought. But it must appear by affidavit, that the controversy is real, and the proceedings in good faith to determine the rights of the parties. The court shall thereupon hear and determine the case at a general term, and render judgment thereon as if an action were pending. Controversy—how submitted without action.

SEC. 276. Judgment shall be entered in the judgment book as in other cases, but without costs for any proceeding prior to the notice of trial. The case, the submission, and a copy of the judgment, shall constitute the judgment roll. Judgment on, as in other cases, but without costs.

SEC. 277. The judgment may be enforced in the same manner as if it had been rendered in an action, and shall be subject to appeal in like manner. Judgments may be enforced or appealed from as in other actions.

Parties not summoned in action on joint contract may be summoned after judgment.

SEC. 278. When a judgment shall be recovered against one or more of several persons jointly indebted upon a contract by proceeding as provided in section 41, those who were not originally summoned to answer the complaint, may be summoned to show cause why they should not be bound by the judgment in the same manner as if they had been originally summoned.

If judgment debtor die, his representatives may be summoned.

SEC. 279. In case of the death of a judgment debtor after judgment, the heirs, devisees, or legatees of the judgment debtor, or the tenants of real property owned by him, and affected by the judgment, may after the expiration of three years from the time of granting letters testementary, or of administration upon the estate of the testator or intestate, be summoned to show cause why the judgment should not be enforced against the estate of the judgment debtor in their hands respectively, and the personal representatives of a deceased judgment debtor, may be so summoned at any time within one year after their appointment.

Form of summons.

SEC. 280. The summons provided in the last two sections shall be subscribed by the judgment creditor, his representatives or attorney, shall describe the judgment, and require the person summoned to show cause within twenty days after the service of the summons and shall be served in like manner as the original summons.

To be accompanied by affidavit of amount due.

SEC. 281. The summons shall be accompanied by an affidavit of the person subscribing it, that the judgment has not been satisfied to his knowledge or information and belief, and shall specify the amount due thereon.

Parties summoned may answer and defend.

SEC. 282. Upon such summons, the party summoned may answer within the time specified therein denying the judgment, or setting up any defence which may have arisen subsequently, and in addition thereto if he be proceeded against, according to section 279, he may make the same defence which he might originally have made to the action, except the statutes of limitation.

Subsequent pleadings and proceedings same as in other actions.

SEC. 283. The party issuing the summons, may demur or reply to the answer, and the party summoned may demur to the reply, and the issues may be tried and judgment may be given in the same manner as in an action, and enforced by execution, or the application of the property charged to the payment of the judgment, may be compelled by attachment if necessary.

Answer and reply to be verified as in action.

SEC. 284. The answer and reply shall be verified in the like cases and manner and be subject to the same rules as the answer and reply in an action.

SECTION 285. A judgment by confession may be entered without action, either for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by this chapter. Judgment may be confessed for debt due or contingent liability.

SEC. 286. A statement in writing must be made, signed by the defendant, and verified by his oath, to the following effect: Statement in writing and form thereof.

1. It must state the amount for which judgment may be entered, and authorize the entry of judgment therefor.

2. If it be for money due, or to become due, it must state concisely the facts out of which it arose, and must show that the sum confessed therefor is justly due, or to become due.

3. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the liability, and must show that the sum confessed therefor does not exceed the same.

SEC. 287. The statement may be filed with the clerk of the circuit court, who shall endorse upon it, and enter in the judgment book a judgment of the circuit court for the amount confessed, with ten dollars costs, together with disbursements. Judgment and execution.

The statement and affidavit, with the judgment endorsed, shall thereupon become the judgment roll. Executions may be issued and enforced thereon, in the same manner as upon judgments in other cases in such courts. When the debt for which the judgment is recovered is not all due, or is payable in installments, and the installments are not all due, the execution may issue upon such judgment for the collection of such installments as have become due, and shall be in the usual form, but shall have endorsed thereon, by the attorney, or person issuing the same, a direction to the sheriff to collect the amount due on such judgment, with interest and costs, which amount shall be stated with interest thereon, and the costs of said judgment. Notwithstanding the issue and collection of such execution, the judgment shall remain as security for the installments thereafter to become due; and whenever any further installment become due, execution may in like manner be issued for the collection and enforcement of the same.

SEC. 288. In an action arising on contract, the defendant may with his answer serve upon the plaintiff, an offer Defendant may offer to

liquidated damages conditionally.

in writing, that if he fail in his defence, the damages be assessed at a specified sum, and if the plaintiff signify his acceptance thereof in writing, with or before the notice of trial, and on the trial have a verdict, the damages shall be assessed accordingly.

Effect of acceptance or refusal of offer.

SEC. 289. If the plaintiff do not accept the offer, he shall prove his damages, as if it had not been made, and shall not be permitted to give it in evidence, and if the damages assessed in his favor shall not exceed the sum mentioned in the offer, the defendant shall recover his expenses incurred in consequence of any necessary preparation or defence in respect to the question of damages, such expenses shall be ascertained at the trial.

A party may be required to admit a paper to be genuine or pay expenses of proving it.

SEC. 290. Either party may exhibit to the other or his attorney at any time before the trial, any paper material to the action, and request an admission in writing of its genuineness. If the adverse party or his attorney fail to give the admission within four days after the request, and if the party exhibiting the paper be afterwards put to the expense in order to prove its genuineness, and the same be fully proved or admitted on the trial, such expense to be ascertained at the trial, shall be paid by the party refusing the admission, unless it appears to the satisfaction of the court that there were good reasons for the refusal; but nothing in this act shall be construed to modify or repeal sections 90, 91 and 92, of chapter 98 of the revised statutes.

Inspection and copy of books, papers and documents, how obtained.

The court before which an action is pending or a judge thereof may in their discretion, and upon due notice, order either party to give to the other, within a specified time, an inspection and copy or permission to take a copy of any books, papers and documents in his possession or under his control containing evidence relating to the merits of the action or the defence therein. If compliance with the order be refused, the court on motion may exclude the paper from being given in evidence or punish the party refusing, or both.

Actions for discovery abolished.

SEC. 291. No action to obtain discovery under oath, in aid of the prosecution or defence of another action, shall be allowed, nor shall any examination of a party be had on behalf of the adverse party, except in the manner prescribed by this chapter.

A party may examine his adversary as a witness on the trial.

SEC. 292. A party to an action may be examined as a witness at the instance of the adverse party, or of any one of several adverse parties; and for that purpose, may be compelled in the same manner, and subject to the

same rules of examination as any other witness, to testify either at the trial, or conditionally, or upon commission.

SEC. 293. The examination, instead of being had at the trial, as provided in the last section, may be had at any time before the trial, at the option of the party claiming it, before a judge of the court, a county judge, on a previous notice to the party to be examined, and any other adverse party, of at least five days, unless for good cause shown, the judge order otherwise. But the party to be examined shall not be compelled to attend in any other county than that of his residence, or where he may be served with a summons for his attendance.

Such examination also allowed before trial and proceedings therefor.

SEC. 294. The party to be examined, as in the last section provided, may be compelled to attend in the same manner as a witness to be examined conditionally; and the examination shall be taken and filed by the judge in like manner, and may be read by either party on the trial.

Party, how compelled to attend.

SEC. 295. The examination of the party thus taken, may be rebutted by adverse testimony.

Testimony of party may be rebutted.

SEC. 296. If a party refuses to attend and testify as in the last four sections provided, he may be punished as for a contempt, and his complaint, answer or reply, may be stricken out.

Effect of a refusal to testify

SEC. 297. A party examined by an adverse party, as in this chapter provided, may be examined on his own behalf in respect to any matter pertinent to the issue; but if he testify to any new matter not responsive to the questions put to him by the adverse party or necessary to explain or qualify his answers thereto, or discharge, when his answers would charge himself, such adverse party may offer himself as a witness on his own behalf in respect to such new matter, and shall be so received.

Testimony of a party not responsive to the inquiries may be rebutted by the oath of the party calling him.

SEC. 298. A person for whose immediate benefit the action is prosecuted or defended, though not a party to the action, may be examined as a witness in the same manner and subject to the same rules of examination as if he were named as a party.

Persons for whom action is brought or defended may be examined.

SEC. 299. A party may be examined on behalf of his co-plaintiff, or of a co defendant, as to any matter in which he is not jointly interested, or liable with such co-plaintiff or co-defendant, and as to which a separate, and not joint verdict or judgment can be rendered. And he may be compelled to attend in the same manner as at the instance of an adverse party; but the examination thus

Examination of co-plaintiff or co-defendant.

taken shall not be used in the behalf of the party examined. And whenever in the cases mentioned in sections two hundred and ninety-three, and two hundred and ninety-four, one of the several plaintiffs, or defendants, who are joint contractors, or are united in interest, is examined by the adverse party, the other of such plaintiffs or defendants may offer himself as a witness to the same cause of action or defence, and shall be so received.

No witness to be excluded on account of interest.

SEC. 300. No person offered as a witness shall be excluded by reason of his interest in the event of the action.

To whom last section inapplicable.

SEC. 301. The last section shall not apply to a party to the action, nor to any person for whose immediate benefit it is prosecuted or defended. When an assignor of a thing in action, or contract, is examined as a witness on behalf of any person deriving title through or from him, the adverse party may offer himself as a witness to the same matter in his own behalf, and shall be so received. But such assignor shall not be admitted to be examined in behalf of any person deriving title through or from him against an assignee, or an executor, or administrator, unless the other party to such contract, or thing in action, whom the defendant, or plaintiff represents, is living, and his testimony can be procured for such examination, nor unless ten days' notice of such intended examination of the assignor, specifying the points upon which he is intended to be examined, shall be given in writing to the adverse party.

When necessary to give notice of the examination of assignor.

Definition of an order.

SEC. 302. Every direction of a court or judge made or entered in writing, and not included in a judgment is denominated an order.

Definition of a motion.

Motions how and where made.

SEC. 303. An application for an order is a motion. Motions may be made to a judge out of court, except for a new trial on the merits. Motions must be made within the circuit in which the action is triable. Orders made out of court, without notice, may be made by any judge of the court, in any part of the state, and they may also be made by a county judge or court commissioner, of the county where the action is triable, except to stay proceedings after a verdict. No order to stay proceedings for a longer time than twenty days shall be granted by a judge out of court, except upon previous notice to the adverse party.

When notice is necessary it must be eight days before the hearing.

SEC. 304. When a notice of motion is necessary, it must be served eight days before the time appointed

for the hearing, but the court or judge may, by an order to show cause, prescribe a shorter time.

SEC. 305. In the action in the circuit court a county judge and court commissioner, in addition to the powers conferred upon them in this act, may exercise within their county the powers of a circuit judge in chambers, according to the existing practice, except as otherwise provided in this act, and their orders may be received by the circuit court as provided in this act. But such court commissioners as are mentioned in this act, shall be appointed by the circuit court for the express purpose of performing the duties authorized by this act.

In action in circuit court county judge and commissioners may act at chambers. Their orders, how reviewed

SEC. 306. There shall be held by each of the circuit judges in each circuit, at least four special terms, in each year, for the trial of issues of law, for the hearing and trial of causes without a jury, for the hearing of motions and the transacting of any and all business that may be done at a regular term, except the trial of issues of fact by a jury, at such time and places as the circuit judge shall designate; the said judges shall each, immediately, designate and publish the times and places of holding said terms, and when designated, they shall not be changed within two years, and at such terms, the issues of law and motions, and all other business that may be heard and disposed of with the same force and effect as it may now be heard and disposed of in the county in which the causes or matters are pending, and when the causes or matters are pending in other counties in the circuit different from the county in which the special term is held, the clerk of the court shall certify the orders and papers to the clerk of the circuit court of the county where the same is pending, and the papers shall be filed and entered by the clerk of the court of the county where the cause or matter is pending, in the same manner as if the cause or matter had been heard or decided by the circuit court at a term thereof held in that county.

Special circuits, number of, how designated and business done thereat.

SEC. 307. When notice of a motion is given, or an order to show cause is returnable before a judge out of court, and at the time fixed for the motion he is absent, or unable to hear it, the same may be transferred by his order to some other judge before whom the motion might originally have been made.

In absence of judge at chambers notice may be transferred to another judge.

SEC. 308. The time within which any proceeding in an action must be had after its commencement, except the time within which an appeal must be taken, may be en-

Enlarging time for proceeding in action.

larged upon an affidavit showing grounds therefor, by a judge of the court, or court commissioner, or by a county judge. The affidavit, or a copy thereof, must be served with a copy of the order, or the order may be disregarded.

It shall not be necessary to entitle affidavits.

SECTION 309. It shall not be necessary to entitle an affidavit in the action; but an affidavit made without a title, or with a defective title, shall be as valid and effectual for every purpose as if it were duly entitled, if it intelligibly refer to the action or proceeding in which it is made.

Time, how computed.

SECTION 310. The time within which an act is to be done as herein provided, shall be computed by excluding the first day, and including the last. If the last day be Sunday, it shall be excluded.

Notice and papers how served on party or attorney.

SECTION 311. Notices shall be in writing, and notices and other papers may be served on the party, or attorney, in the manner prescribed in the next three sections where not otherwise provided by this act.

Service personal or by copy in office or house.

SEC. 312. The service may be personal, or by delivery to the party or attorney on whom the service is required to be made, or it may be as follows:

1. If upon an attorney, it may be made during his absence from his office, by leaving the paper with his clerk therein, or with a person having charge thereof; or when there is no person in the office, by leaving it, between the hours of six in the morning and nine in the evening, in a conspicuous place in the office, or if it be not open, so as to admit of such service, then by leaving it at the attorney's residence with some person of suitable age and discretion.

2. If upon a party, it may be made by leaving the paper at his residence between the hours of six in the morning and nine in the evening, with some person of suitable age and discretion.

Service by mail, when and how.

SEC. 313. Service by mail may be made, where the person making the service, and the person on whom it is to be made reside in different places between which there is a regular communication by mail.

Postage to be paid.

SEC. 314. In case of service by mail, the paper must be deposited in the post office, addressed to the person on whom it is to be served, at his place of residence, and the postage paid.

Double time when served by mail.

SEC. 315. When the service is by mail, it shall be double the time required in case of personal service.

Notice of motion, &c. to be eight days.

SEC. 316. Notice of a motion or other proceeding before a court or judge when personally served, shall be given at least eight days before the time appointed therefor.

SEC. 317. Where a defendant shall not have demurred or answered service of notice or papers in the ordinary proceedings in an action need not be made upon him unless he be imprisoned for want of bail; but shall be made upon him or his attorney, if notice of appearance in the action has been given. When papers need not be served on defendant.

SEC. 318. Where a plaintiff or a defendant who has demurred or answered, or gives notice of appearance, resides out of the state and has no attorney in the action, the service may be made by mail, if his residence be known, if not known, on the clerk for the party. Service of papers where party resides out of the state.

SEC. 319. The summons and the several pleadings in an action, shall be filed with the clerk within ten days after the service thereof, respectively, or the adverse party, on proof of the omission, shall be entitled, without notice to an order from a judge, that the same be filed, within a time specified in the order, or be deemed abandoned. Summons and pleadings to be filed.

SEC. 320. Where a party shall have an attorney in the action, the service of papers shall be made upon the attorney instead of the party. Service on attorney.

SEC. 321. The provisions of this chapter shall not apply to the service of a summons or other process or of any paper, to bring a party into contempt. When this chapter does not apply.

SEC. 322. Whenever, pursuant to this act, the sheriff may be required to serve or execute any summons, order, or judgment, or to do any other act, he shall be bound to do so in like manner as upon process issued to him, and shall be equally liable in all respects, for neglect of duty, and if the sheriff be a party, the coroner shall be bound to perform the service, as he is now bound to execute process, when the sheriff is a party, and all the provisions of this act relating to sheriff's shall apply to coroners, where the sheriff is a party. Duty of sheriff or coroner in serving or executing process and how enforced.

SEC. 323. No guardian appointed for an infant shall be permitted to receive property of the infant, until he shall have given sufficient security, approved by a judge of the court, or a county judge, or court commissioner, to account for and apply the same under the direction of the court. Guardian not to receive property until security given.

SEC. 324. Every referree appointed pursuant to this act, shall have power to administer oaths in any proceeding before him, and shall have generally the powers now vested in a referee by law. Referees are authorised to administer oaths and to exercise powers now vested in referees by law.

Papers lost or withheld, how supplied.

SEC. 325. If any original pleading or paper be lost or withheld by any person, the court may authorize a copy thereof to be filed and used instead of the original.

Where undertakings are to be filed.

SEC. 326. The various undertakings required to be given by this act must be filed with the clerk of the court, unless the court expressly provides for a different disposition thereof, except that the undertakings provided for by the chapter on the claim and delivery of personal property shall, after the justification of the sureties, be delivered by the sheriff, to the parties respectively, for whose benefit they are taken.

On appeal judgment may be entered up against appellant and surety jointly, and when collected of surety.

SEC. 327. On an appeal from a justice of the peace, if the appellate court shall give judgment against the party appealing, such judgment may be entered up against the appellant and surety jointly, but it shall not be collected of the surety by the officer to whom the execution is directed, if he can find sufficient property of the principal to satisfy the same, and the party issuing execution, shall endorse a direction thereon to that effect.

Judgment against surety.

SEC. 328. When a judgment shall be entered up against either party, in an action for the claim and delivery of personal property, such judgment may be entered up as well against the principal as against any surety, who shall have signed a written undertaking with him, for a return or delivery of the property, as prescribed in this act, and in case where the officer to whom the execution is directed, may collect the value of the property, or any damages or costs of the principal, he shall, if he cannot find sufficient property of the principal to satisfy the same, collect the whole or any part of the judgment, which may remain unsatisfied, of the property of such surety or sureties, and the party issuing execution shall endorse a direction thereon to that effect.

Judgment on bond and warrant of attorney, affidavit of plaintiff necessary.

SEC. 329. Judgment upon bond or note and warrant of attorney may be entered up as now provided by law, and this act, so far as the entering of such judgment shall not apply thereto, but the plaintiff, or some one in his behalf, shall make and file with the judgment record an affidavit, stating the amount actually due on the bond or note, at the time of entering such judgment.

Time for publication of notice, how computed.

SEC. 330. The time for publication of legal notices shall be computed so as to exclude the first day of publication, and include the day on which the act or event, of which notice is given, is to happen, or which completes the full period required for publication.

SEC. 331. The writ of *scire facias*, the writ of *quo warranto*, and proceedings by information in the nature of *quo warranto*, shall be as here prescribed, and the remedies heretofore obtainable in those forms, may be obtained by civil action, under the provisions of this chapter. But any proceeding heretofore commenced, or judgment rendered, or right acquired, shall not be affected by this act. It shall not be necessary to sue out such writs in form.

Scire facias and quo warranto as prescribed in this act.

SEC. 332. Actions of *quo warranto* and *mandamus* shall be tried at special as well as at general terms of the circuit court, and the court shall have power to summon a jury for the purpose and prescribe the manner of summoning the same.

Actions of quo warranto and mandamus, where tried.

SEC. 333. An action may be brought by the attorney general, in the name of the state, whenever the legislature shall direct, against a corporation, for the purpose of vacating or annulling the act of incorporation, or an act renewing its corporate existence, on the ground that such act or renewal was procured upon some fraudulent suggestion or concealment of a material fact, by the persons incorporated, or by some of them, or with their knowledge and consent.

Action may be brought by attorney general to vacate a charter by direction of the legislature.

SEC. 334. An action may be brought by the attorney general in the name of the state, on leave granted by the supreme court, or a judge thereof for the purpose of vacating the charter, or annulling the existence of a corporation other than municipal when such corporation shall:

Action annulling corporation by attorney general by leave of supreme court.

1. Offend against any of the provisions of the act or acts, creating, altering or renewing such corporation.

2. Violate the provisions of any law, by which such corporation shall have forfeited its charter by abuse of its powers, or

3. Whenever it shall have forfeited its privileges or franchises by failure to exercise its powers, or

4. Whenever it shall have done, or omitted any act which amounts to a surrender of its corporate rights, privileges or franchise, or

5. Whenever it shall exercise a franchise or privilege not conferred upon it by law. And it shall be the duty of the attorney general whenever he shall have reason to believe that any of these acts or omissions can be established by proof to apply for leave, and upon leave granted to bring the action in every case of public interest, and also in every other case in which satisfactory security shall

be given to indemnify the people of this state against the costs and expenses to be incurred thereby.

Leave, how obtained.

SEC. 335. Leave to bring the action may be granted upon the application of the attorney general, and the court or judge may in its discretion, direct notice of such application to be given to the corporation or its officers previous to granting such leave, and may hear the corporation in opposition thereto.

An action by attorney general or other persons to try the title to an office.

SEC. 336. An action may be brought by the attorney general in the name of the state upon his own information, or upon the complaint of any private party, against the parties offending in the following cases:

1. When any person shall usurp, intrude into, or unlawfully hold or exercise, any public office, civil or military, or any franchise within this state, or any office in a corporation created by the authority of this state, or

2. When any public officer, civil or military, shall have done or suffered an act which, by the provisions of law, shall make a forfeiture of his office; or

3. When any association, or number of persons, shall act within this state as a corporation without being duly incorporated,

4. Such action may be brought in the name of the people of this state, by a private person on his own complaint, when the attorney general refuses to act, or when the office usurped pertains to a county, town, city or district.

Action, when and how brought to vacate letters patent.

SEC. 337. An action may be brought by the attorney general in the name of the state, for the purpose of vacating or annulling letters patent granted by the people of this state, in the following cases:

1. When he shall have reason to believe that such letters patent were obtained by means of some fraudulent suggestion, or concealment of a material fact, made by a person to whom the same were issued, or made with his consent or knowledge.

2. When he shall have good reason to believe that such letters patent were issued through mistake, or in ignorance of a material fact; or

3. When he shall have reason to believe that the patentee, or those claiming under him, have done or omitted an act in violation of the terms and conditions on which the letters patent were granted, or have by any other means forfeited the interest acquired under the same.

SEC. 338. When an action shall be brought by the attorney general by virtue of this chapter, on the relation or information of a person having an interest in the question, the name of such person shall be joined with the state as plaintiff.

Relator when to be joined as plaintiff.

SEC. 339. Whenever such action shall be brought against a person for usurping an office, the attorney general or person complaining, in addition to the statement of the cause of action, may also set forth in the complaint the name of the person rightfully entitled to the office, with a statement of his right thereto, and in such case, upon proof by affidavit, that the defendant has received fees or emoluments belonging to the office, and by means of his usurpation thereof, an order may be granted by a judge of the circuit court, for the arrest of such defendant, and holding him to bail, and thereupon he shall be arrested and held to bail, in the manner and with the same effect, and subject to the same rights and liabilities as in other civil actions, when the defendant is subject to arrest.

Complaint and arrest of defendant in action for usurping an office.

SEC. 340. In every such case judgment shall be rendered upon the right of the defendant, and also upon the right of the party so alleged to be entitled, or only upon the right of the defendant, as justice shall require.

Judgment in such actions.

SEC. 341. If the judgment be rendered upon the rights of the person so alleged to be entitled, and the same be in favor of such person, he shall be entitled, after taking the oath of office and executing such official bond as may be required by law, to take upon himself the execution of the office, and it shall be his duty immediately thereafter, to demand of the defendant in the action, all the books and papers, in his custody, or within his power, belonging to the office from which he shall have been excluded.

Assumption of office, &c., by relator when judgment in his favor.

SEC. 342. If the defendant shall refuse or neglect to deliver over such books or papers pursuant to the demand, he shall be guilty of a misdemeanor, and the same proceedings shall be had, and with the same effect, to compel delivery of such books and papers, as are provided by law.

Proceedings against defendant on refusing to deliver books and papers.

SEC. 343. If judgment be rendered upon the right of the person so alleged to be entitled, in favor of such person, he may recover, by action, the damages which he should have sustained by reason of the usurpation by the defendant of the office from which such defendant has been excluded.

Damages, how recovered.

When actions against several persons claiming office or franchise.

SEC. 344. When several persons claim to be entitled to the same office, or franchise, one action may be brought against all such persons, in order to try their respective rights to such office or franchise,

Penalty for usurping office or franchise, how awarded.

SEC. 345. When a defendant, whether a natural person or a corporation, against whom such action shall have been brought, shall be adjudged guilty of usurping or intruding into, or unlawfully holding or exercising any office, franchise or privilege, judgment shall be rendered that such defendant be excluded from such office, franchise or privilege, and also that the plaintiff recover costs against such defendant. The court may also, in its discretion, fine such defendant a sum not exceeding two thousand dollars, which fine, when collected, shall be paid into the treasury of the state.

Judgment of forfeiture against corporations.

SEC. 346. If it shall be adjudged that a corporation against which an action shall have been brought pursuant to this chapter, has, by neglect, abuse or surrender, forfeited its corporate rights, privileges and franchises, judgment shall be rendered, that the corporation be excluded from such corporate rights, privileges and franchises, and that the corporation be dissolved.

Costs against corporations or persons claiming to be such, how collected.

SEC. 347. If judgment be recovered in such action against a corporation, or against persons claiming to be a corporation, the court may cause the costs therein to be collected, by execution against the persons claiming to be a corporation, or by attachment or process against the directors, or other officers of such corporation.

Restraining corporations and appointment of a receiver.

SEC. 348. When such judgment shall be rendered against a corporation, the court shall have the same power to restrain the corporation, to appoint a receiver of its property, and to take an account, and make distribution thereof among its creditors, as are given by law.

Copy of judgment roll against corporations, when to be filed.

SEC. 349. Upon the rendition of such judgment against a corporation, or for vacating or annulling of letters patent, it shall be the duty of the attorney general to cause a copy of the judgment roll to be forthwith filed in the office of the secretary of state.

Actions for forfeiture of property to the people.

SEC. 350. Whenever by the provisions of law, any property, real or personal, shall be forfeited to the people of this state, or to any officer for their use, an action for the recovery of such property, alleging the grounds of the forfeiture, may be brought by the proper officer in the circuit court.

SEC. 351. The provisions of the revised statutes relating to the partition of lands, tenements and hereditaments, held or possessed by joint tenants in common, shall apply to actions for such partition, brought under this act, so far as the same can be applied to the substance and subject matter of the action without regard to its forms.

Provisions of revised statutes.

Application to actions of partition.

SEC. 352. Proceedings to compel the determination of claims to real property pursuant to the provisions of the revised statutes may be prosecuted by action under this act without regard to the forms of the proceedings as they are prescribed by those statutes.

Action to determine claims to real property, how prosecuted.

SEC. 353. The general provisions of the revised statutes relating to actions concerning real property, shall apply to actions brought under this act according to the subject matter of the action and without regard to its forms.

Provisions of revised statutes applicable to actions concerning real property brought under this act.

SEC. 354. Wherever a right now exists to have a review of a judgment rendered, or order or decree made before the tenth day of December, eighteen hundred and fifty-six, such review may be had upon an appeal taken in the manner provided by this act. But this section shall not extend the right of review to any case or question to which it does not now extend, nor the time of appealing, nor shall it apply to a case where a writ of error has been already issued.

Manner of reviewing judgment in existing cases.

SEC. 355. An execution may be issued without leave of the court upon a judgment docketed before the tenth day of December, eighteen hundred and fifty-six, or now or hereafter to be rendered in any action pending on that day, at any time within two years after the rendering of the judgment.

Execution on judgment heretofore rendered.

SEC. 356. The provisions of this act apply to future proceedings in actions or suits heretofore commenced and now pending as follows:

Provisions of this act applicable to proceedings in actions.

1. If there have been no pleading therein, to the pleadings and all subsequent proceedings.

2. When there is an issue of law or of fact or any other issue of fact to be tried, to the trial and subsequent proceedings.

3. After a judgment or order to the proceedings to enforce, vacate, modify or reverse it, including the costs of an appeal.

SEC. 357. The words "real property," as used in this act, are co-extensive, with lands, tenements and hereditaments.

Definition of real property.

Definition of personal property.

SEC. 358. The words "personal property," as used in this act, include money, goods, chattels, things in action, and evidences of debt.

Definition of property.

SEC. 359. The word "property," as used in this act, includes property real and personal.

Definition of a circuit.

SEC. 360. The word "circuit," as used in this act, signifies judicial circuit, except when otherwise specified.

Common law rule of construction of statute inapplicable to this act.

SEC. 361. The rule of common law, that statutes in derogation of that law are to be strictly construed, has no application to this act.

Statutory provision inconsistent with this act repealed.

SEC. 362. All statutory provisions inconsistent with this act are repealed; but this repeal shall not revive a statute or law which may have been repealed or abolished by the provisions hereby repealed. All the rights of action given or secured by existing laws, may be prosecuted in the manner provided by this act. If a case shall arise in which an action for the enforcement or protection of a right, or the redress or prevention of a wrong, cannot be had under this act, the court where such action arises, shall provide a remedy which shall conform as near as may be to this act.

Rules and practices inconsistent with this act abrogated.

SEC. 363. The present rules and practice of the courts in civil actions inconsistent with this act are abrogated; but where consistent with this act, they shall continue in force, subject to the power of the respective courts to relax, or modify, or alter the same.

Judges of supreme court to make general rules, and until then the rules of courts of New York to be rules of practice.

SEC. 364. The judges of the supreme court shall meet in the capitol, at the city of Madison, on the second Wednesday in December eighteen hundred and fifty-six, and revise their general rules, and the rules of the circuit courts, and make such amendments thereto as may be necessary to carry into effect the code of proceedings; and till such revision, the rules of the court of appeals and supreme court of New York, adopted since eighteen hundred and forty-eight, shall, as far as applicable, be the rules of practice in the courts of record in this state.

This act not to affect certain proceedings and statutory provisions.

SEC. 365. Until the legislature shall otherwise provide, this act shall not affect proceedings upon *mandamus*, or prohibition nor appeals from probate courts, nor any special statutory remedy not heretofore obtained by action, nor any existing statutory provisions, relating to actions, not inconsistent with this act, and in substance applicable to the actions hereby provided; nor any special proceed-

ings provided for by the revised statutes, except that when in consequence of any such proceeding, a civil action shall be brought, such action shall be conducted in conformity with this act.

SEC. 366. Chapter one hundred twelve and one hundred ninteen of the revised statutes, except sections six, seven, eight, nine, ten, eleven, twenty-five and twenty-six, of the first named chapter, and chapter eighty-nine of the session laws of eighteen hundred fifty one are hereby repealed, except as the provisions of said chapter are allowed by this act to apply to suits under this code. Certain parts of revised and other statutes repealed.

SEC. 367. The secretary of state shall, forthwith, after the passage of this act, cause six thousand copies thereof to be printed in a separate pamphlet, as session laws are now printed, and he shall, as soon as said pamplet is printed, distribute the same as the session laws are now required to be distributed, by law, and the remaining copies shall be retained in the office of the secretary of state, to be sold at cost to any person desiring to purchase the same, (not more than five copies to one person), and it shall not be necessary to print the [this] act in the session laws. How this act to be printed.

SEC. 368. The governor shall appoint some competent person, whose duty it shall be to superintend the printing of said pamphlet, and revise and correct the proof sheets, and divide the same into proper titles and chapters and sections, with a suitable index, and such person shall be entitled to five dollars per day for his services, and his account, when sworn to by him, shall be audited and paid by the state treasurer out of any money not otherwise appropriated. Governor to appoint person to superintend printing, &c.

Approved October 9th, 1856.

CHAPTER 121.

Published November 12.

An Act concerning Railroads.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Any railroad company may borrow such sum or sums of money, at such rates of interest and upon such Railroad companies may

borrow money and execute trust deeds, &c.

terms, as said company or its board of directors shall authorize and agree upon and may deem necessary or expedient, and may execute one or more trust deeds or mortgages, or both, as occasion may require, on any railroad, or railroads constructed in or in process of construction by said company, for the amount or amounts, borrowed or owing by such company, upon such terms and in such manner as such company or its board of directors shall deem expedient, and such company may make such provisions in such trust deed or mortgage for pledging or transferring their railroad track, right of way, depot grounds, rights, privileges, franchises, immunities, machine houses, rolling stock, furniture, tools, implements, appendages and appurtenances belonging to or used in connection with such railroad or railroads, in any manner whatever as security, for any bonds, debts, or sums of money that may be secured by such trust deed or mortgage, as they shall think proper, and in case of any sale of any railroad or railroads, or any part thereof constructed or in process of construction by any railroad company, on or by virtue of any trust deed or on foreclosure of any mortgage, thereupon the party or parties acquiring title under any such sale, and their associates, successors or assigns, shall have and acquire thereby, and shall exercise and enjoy thereafter all and the same rights, privileges, grants, franchises, immunities and advantages in and by said mortgage or trust deed enumerated and conveyed, which belonged to and were enjoyed by the company making such deed or mortgage, or contracting such debt so far as the same relate and appertain to that portion of said road or the line thereof mentioned and described in and conveyed by said mortgage or trust deed, and no further, as fully and absolutely in all respects as the corporators, share holders, officers, and agents of such company might or could have done, therefore, had not such sale or purchase taken place; such purchaser or purchasers, their associates, successors or assignors may proceed to organize anew and elect directors, distribute and dispose of stock, take the same or another name, and may conduct their business generally under, and in the manner provided in the charter of such railroad company, with such variations in manner and form of organization, as their altered circumstances and better convenience may seem to require; *Provided, however*, That no greater or enlarged powers shall be exercised by the new organization, than are conferred by the charter of such company.

Proviso.

SEC. 2. All rolling stock of any railroad company used and employed in connection with its railroad, shall be, and the same are hereby declared to be fixtures, and all such property, and all additional right of way, depot grounds and other real property acquired subsequently to the execution of any such trust deed or mortgage, which may be described or provided for therein, shall be subject to the same lien as is created by such trust deed or mortgage, upon the property therein described, to which such company had title at the time of its execution; every such mortgage or trust deed, upon any rail road in this state, and upon any part thereof, and every discharge or satisfaction thereof, may be recorded in the office of the secretary of state, in a proper book kept for that purpose, and the certificate of such recording endorsed on such mortgage or trust deed, by the secretary of state, shall be evidence thereof, and the said mortgage or trust deed so recorded, shall have the same effect, as if recorded in the several counties through which said road may be built, and the record of such trust deed or mortgage so made as above provided, shall be evidence, and notice of the lien hereby created upon all such subsequently acquired property, to all persons interested to the same extent and with the same effect as the same is now by law made; notice of the time of such trust deed or mortgage upon any property to which such railroad had title at the time of its execution.

Rolling stock declared to be fixtures.

SEC. 3. It shall and may be lawful for any railroad company annually, or oftener, as its board of directors shall deem expedient, to set apart and appropriate a sum of money not exceeding fifty per cent of its net earnings or resources in any one year after paying the current expenses of their road, and the interest and its outstanding indebtedness, in order to sink, redeem, pay off, cancel or discharge the indebtedness of said company incurred in the construction and equipment of its road; and said sums so set apart shall be annually applied to the payment and discharge of such debts, of said company as shall be due, and to the purchase and redemption of the outstanding evidences of indebtedness of said company, upon the best and most favorable terms, to be held or cancelled by said company as the board of directors thereof shall deem most for the interest of said company.

May establish a sinking fund.

SEC. 4. That all mortgages or trust deeds heretofore executed by any railroad company, are hereby declared

Mortgages, &c., made prior to

the passage of this act.

to be included within, and subject to the provisions of this act as fully and effectually as if its provisions had been incorporated in its charter, prior to, and at the time of the execution of such mortgages or trust deed: *Provided, however*, That such railroad company shall first accept of the provisions of this act by a resolution of its board of directors, and shall cause a copy thereof, under the certificate of its secretary, with the corporate seal thereof attached thereto, to be filed in the office of the secretary of state: *And provided further*, That this section shall not be construed in any wise to affect any liens acquired by any person or persons, corporation or body politic, upon such subsequently acquired property, at any time after the execution of such mortgage, and prior to the filing of the acceptance of the provisions of this act as above provided, in the office of the secretary of state.

Provisos.

Suits brought or instituted.

SEC. 5. All suits brought or instituted against any railroad corporation, created by the laws of this state, except appeals from the awards of commissioners or jurors appointed under its act of incorporation to appraise compensation and damages for property taken, for the use of such corporation, shall be brought in some county through which such railroad runs, and no proceedings shall be had or entertained in any such suit, unless the processs shall have been duly served upon the president, secretary, superintendent or general attorney of such corporation.

In case of sale of railroad, &c.

SEC. 6. In case of any sale of any railroad, or of any portion of any railroad, with its appurtenances, property, right of way, franchises, and privileges, or any of them under, and by virtue of any trust deed or mortgage, now executed, or that may be hereafter executed upon the same, such sale when made in accordance with the provisions contained in such trust deed or mortgage, shall be absolute, unless the said company or any subsequent incumbrancer, shall, within one year from and after the date of such sale, redeem said railroad and property so sold, by paying the amount of the purchase money on such sale and the interest thereon, at the rate of twenty per cent per annum, in the manner provided by law, and any such sale shall not be required to be made in accordance with any other law of this state, for the sale of real estate under foreclosure of mortgage or otherwise.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved October 10, 1856.

CHAPTER 122.

Published November 4, 1856.

An Act to grant certain lands to the La Crosse and Milwaukee Railroad Company, and to execute the trust created by an act of Congress, entitled "an act granting public lands to the State of Wisconsin to aid in the construction of railroads in said state." Approved June 3d, 1856.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The La Crosse and Milwaukee railroad company is hereby authorized and empowered to survey, locate, contract, complete and perpetually to have, use, maintain and operate railroads, with one or more tracks or lines, from the city of Madison, in the county of Dane, and from the village of Columbus, in the county of Columbia, on the most direct and feasable route, by the way of Portage City, to the St. Croix river or lake, between townships twenty five and thirty one, and from thence to the west end of Lake Superior, and to Bayfield, and shall have, possess, exercise and enjoy the same rights, privileges, functions, franchises, authority and immunities with reference to the said routes, or any railroad to be built thereon, as it now possesses, or enjoys, with reference to any route it is now authorized to occupy, or any railroad built or to be built thereon, and there is hereby conferred upon the La Crosse and Milwaukee railroad company, all the power and authority contained in the charter of said company, and in the acts amendatory thereof, for the purpose of carrying out the object of this act and of appropriating and applying the lands hereinafter, in this act granted, or their proceeds, to aid in the construction of railroads by this act authorized to be built. La Crosse railroad company to build and maintain certain roads.

SEC. 2. The said roads shall be constructed on the most direct and feasable routes from Madison to Portage City, and from Columbus to Portage City, and simultaneously as nearly as practicable, and both of them shall be completed by the last day of December A. D. 1858, and for the purpose of estimating and selecting the lands granted by congress, the city of Madison is hereby designated as the point of commencement of said road, and the whole of the railroad hereby authorized to be constructed shall Routes.

be constructed by said La Crosse and Milwaukee railroad company, within ten years from the third day of June A. D. 1856.

Powers granted.

SEC. 3. The said La Crosse and Milwaukee railroad company shall never set up the defence of usury, to any contract in any court whatever; it may purchase and own rails, chairs, spikes, engines, tenders, cars and all other things necessary or useful for the construction or operation of a railroad, and sell the same; and it shall also have power and authority to operate its said roads, or either of them, in connection with any, and all other railroads which may cross, come up to, or connect with the said railroads, or either of them, upon such terms as shall be mutually agreed upon, by and between the said companies; *Provided, however*, That the said La Crosse and Milwaukee railroad company, in making any such contract as last aforesaid, shall give no preferance to one company over any such company or companies, as last above mentioned; but all such companies shall be put upon the same equal terms; *And, provided also*, That if the said La Crosse and Milwaukee railroad company, and such other railroad company as may desire a running connection with the same, shall at any time not be able mutually to agree upon the terms of such connections, then and in that case either party may apply to the circuit court of the circuit in which said connection may be sought; and the said circuit court shall appoint three commissioners, whose duty it shall be forthwith to proceed to examine and adjust the terms on which the said connection shall exist, and the said award of terms of connection shall be filed in the office of the secretary of state, and shall be binding on both parties for the term of two years. Such application shall be on not less than ten days notice in writing, to be given by the party making such application to the adverse party.

Proviso.

Proviso.

Interest of state to lands granted to company.

SEC. 4. For the purpose of aiding in the construction of the said roads, which by this act, the said La Crosse and Milwaukee railroad company is authorized to construct, all the interest and estate, present and prospective, of this state, in or to any and all the lands granted by the government of the United States to the state of Wisconsin, for the purpose of aiding in the construction of a railroad from Madison or Columbus, by the way of Portage City to the St. Croix river, or lake, between township twenty-five and thirty-one, and from thence to the

west end of Lake Superior, and to Bayfield, by virtue of an act of Congress, entitled "An act granting a portion of the public lands to the state of Wisconsin, to aid in the construction of railroads," approved June 3d, 1856, together with all and singular the rights, privileges and immunities conferred or intended to be conferred by the said act of Congress, are hereby granted to the said La Crosse and Milwaukee railroad company; *Provided*, That the said land shall be exclusively applied in the construction of that road, for which it was granted and selected, and shall be disposed of only as the work progresses, and the same shall be applied to no other work whatever; *And Provided further*, That the title to said lands shall vest in the said La Crosse and Milwaukee railroad company, in the manner following, that is to say, whenever twenty continuous miles of the said road shall have been completed, so as to admit of running regular trains on the same. The governor of this state shall certify to the secretary of the interior, the fact that such twenty continuous miles of such roads are completed as aforesaid, then the title to two hundred and forty sections of said land shall vest in the said La Crosse and Milwaukee railroad company; and when a second twenty continuous miles of said road shall have been completed, so as to admit of running regular trains on the same, the governor shall certify as above, and thereupon a further quantity of one hundred and twenty sections of said lands shall vest in said company, and so from time to time until said roads are completed. And it shall be the duty of the governor so to certify to the secretary of the interior whenever any such twenty miles are completed, so as to admit of running of regular trains of cars over the same. And the governor of the state shall, in his official capacity, and in behalf of the state, and under the great seal thereof, execute and deliver to the La Crosse and Milwaukee railroad company, whenever it shall by virtue of the provisions of this chapter, be entitled to any of said lands, a deed in fee simple of any and all the lands to which said company shall be entitled. *Provided*, That said company shall not sell any of said lands until twenty miles of said road shall be completed, so as to admit of running regular trains over the same, and so on from time to time, so that the sales of land by said company shall never exceed six sections of land for every mile of said road so completed.

Proviso.

Proviso.

Proviso.

Location of route, &c.

SEC. 5. The location and designation of the route and line of the said roads, shall be made by the said La Crosse and Milwaukee railroad company, and the same shall from time to time, and as fast as practicable, be reported to the governor of this state. The selection of lands provided for in the act of Congress herein mentioned, shall be made by such agents as may be appointed by the governor of this state. Said selection, as well as the survey, location and completion of said roads, and the compensation of such agents, shall be at the cost and charge of said company, without charge of any kind upon the treasury of the state of Wisconsin. Said railroads which shall be constructed by the application of funds derived from the lands herein granted, shall be and remain public highways for the use of the government of the United States, free from any toll or other charge upon the transportation of property or troops of the United States; and the United States mail shall be transported over said roads under the direction of the Post Office Department, as provided in said act of Congress.

Shall pay annually to the state a certain sum in lieu of taxes.

SEC. 6. In consideration of the grants, privileges and franchises herein conferred upon the said La Crosse and Milwaukee railroad company, for the purposes aforesaid, the said company shall, on or before the first day of March, in each year, pay into the treasury of the state such sum as it is by the existing laws of the state required to pay, in place of taxes upon its road so constructed, or which it may hereafter construct under the present charter, and in addition thereto, it shall pay into the treasury of the state, on or before the first day of March in each year, four per centum on the gross earnings of said road, to be built by said company, in pursuance of the power and authority conferred by this act for the year ending on the last day of the preceding December, in place of taxes on that portion of its said railroad so to be constructed; and for the purpose of ascertaining the gross earnings aforesaid, an accurate account of such earnings shall be kept by said company, an abstract whereof shall be furnished by said company to the treasurer of this state, on or before the first day of February, in each year; the truth of which abstract shall be verified by the affidavits of the treasurer and secretary of the said company, and for the purpose of ascertaining the truth of said affidavits and the correctness of such abstracts,, full power is hereby vested in the

To furnish to state treasurer an abstract of earnings, &c.

governor of this state or any other person appointed as may be by law prescribed, to examine the books and papers of said company, and to examine under oath the officers, agents and employees of the said company and other persons, and if any person so examined by the governor or other authorized person, shall knowingly or wilfully swear falsely, concerning the matter aforesaid, every such person is hereby declared to have committed perjury. And for securing to the state the payment of the aforesaid per centum, it is hereby declared that the state shall have a lien upon the railroad of the said company, and upon all other property, estate and effects of said company, whether real, personal, or mixed, and the lien hereby secured by the state shall take and have precedence of all demands, decrees and judgments, against the said company. The first payment shall be made on the first day of March next, after fifty miles of said road shall be completed, and such payment shall be in lieu and in full of all claims of the state for the grant hereby made; and in consideration of such annual payment, the said company shall be forever exempt from all assessments or taxes whatever by the state, or by any county, town, city, village or other municipal authority in the state, (except special taxes for the improvement of streets and sidewalks) upon all stock in the said La Crosse and Milwaukee railroad company, whether belonging to said company or to individuals, or any of its franchises, or estate, real, personal, or mixed, held by said company, and necessary for the operating of said railroad, and said lands granted by said act of congress, and hereby authorized to be conveyed to the La Crosse and Milwaukee railroad company, shall be exempt from all taxation under or by virtue of the laws of this state, for the period of ten years after the passage of this act, unless sooner sold, conveyed or leased by the said La Crosse and Milwaukee railroad company, and the state shall have a prior lien upon the road of said company, and all the appurtenances and stock thereof, for all dues that may accrue to the state from said corporation as herein provided, which lien of the state shall take precedence of all demands, judgments or decrees against said corporation.

Lien on road by state.

Exempt from assessments and taxes.

SEC. 7. Within five years after the title of such lands shall become vested in the said railroad company, the same, if any shall remain unsold, shall be offered for sale

Sale of lands remaining unsold.

in limited quantities at fair prices, preference being given to actual settlers.

Transportation.

SEC. 8. The said La Crosse and Milwaukee railroad company shall have full power and authority to transport persons or property in boats, vessels, barges, or other water crafts, on any navigable water which any portion of their railroad may run to, or connect with, and to receive and collect reasonable compensation for the same, and for that purpose may purchase or build, and own such vessels, boats, barges, or water crafts as it may require.

Capable of holding lands and disposing of same.

SEC. 9. The said La Crosse and Milwaukee railroad company shall be capable in law of taking and holding any lands granted by the government of the United States, or of this state, to aid in the construction of railroads, which shall be conveyed to said company by this act, or by deed, or by operation of law, and may also mortgage or pledge, or otherwise dispose of all their right, title and interest, claims or demands of, in or two any lands, or interest in lands, granted to said company, by this act, and in any other estate, real, personal, or mixed, of which they may be seized at the time of execution of such mortgage, or which they may acquire subsequent thereto, in such manner and on such terms as the directors may think proper.

May construct road over route of any other company.

SEC. 10. In case the said La Crosse and Milwaukee railroad company shall construct the railroad, which by this act, it is authorized to construct, or any part of it, upon or over any route, upon or over which any other railroad company is authorized to construct a railroad, and upon or over which it has, prior to the passage of this act, actually surveyed or located its line of railroad, it shall be the duty of the La Crosse and Milwaukee railroad company to settle with such railroad company, upon principles of justice and equity, for all its property and rights of property, which the said La Crosse and Milwaukee railroad company shall take, injure, or destroy; and the latter company shall pay to any such company, whose property or rights of property shall be thus taken, injured or destroyed, whatever the same is reasonably worth; such payment to be made in money, bonds, stocks, or lands, or in such other manner as said companies shall mutually agree, and if the said companies cannot mutually agree upon the amount of compensation to be made by the said La Crosse and Milwaukee railroad company, to such other company, for the property and rights of pro-

Compensation to other company.

perty, which said La Crosse and Milwaukee railroad company shall, as aforesaid take, injure or destroy, then, and in that case, each of such companies shall select a disinterested engineer, and the two engineers so selected, shall choose a third person, and in case they cannot agree upon such third person, the governor shall appoint such third person; and the third person so selected, shall constitute a board of commissioners, whose duty it shall be to ascertain, determine and award the amount of compensation which the said La Crosse and Milwaukee railroad company ought, in justice and equity, to make to such other railroad company, for the property and rights of property which shall be so as aforesaid taken, injured or destroyed.

Shall accept grant within certain time, &c.

SEC. 11. This act and all grants herein contained shall cease and be void, unless the said La Crosse and Milwaukee railroad company shall accept of the same within five days after the passage of this act; and such acceptance shall be by a resolution adopted by the directors of said company, a copy of which, duly certified by the secretary of said company, under its corporate seal, within said period of five days from the passage of this act, shall be deposited in the office of the secretary of state; and in case the said La Crosse and Milwaukee railroad company shall violate the provisions of this act, the legislature may repeal this act, and may revoke all and singular the rights and franchises herein conferred, so far as the same has not been performed and fulfilled, and so far as the rights and privileges hereby granted have not become complete and absolute.

Property taken deemed for public use.

SEC. 12. All property which the said La Crosse and Milwaukee railroad company is authorized to appropriate, take, possess, hold, use or enjoy, by making payment therefor, as is in this act provided, is hereby declared to be taken for public use so soon as the said company shall so appropriate, take, possess, hold or use the same.

Capital stock increased.

SEC. 13. The capital stock of the La Crosse and Milwaukee railroad company is hereby increased two millions of dollars over and above its present capital, and within three months after the passage of this act, said company shall open books for subscription to such increased capital stock, after giving at least thirty days' notice thereof, in two newspapers, one published in the city of Milwaukee and one published in the city of Madison. Such books shall be opened in the city of Milwaukee, and shall be kept open for not less than three

days; and all persons shall be permitted to subscribe to said stock on the payment to the treasurer of the company, of five per cent. on the amount subscribed in cash; but no one person shall be allowed to subscribe for more than two hundred and fifty shares of such stock; and in case the number of shares subscribed shall exceed the amount of two millions of dollars, the same shall be reduced to that amount by deducting such sum as may be necessary, *pro rata*, from each of the several subscriptions, and the shares of stock so subcribed, shall be subject to calls for installments thereon, in like manner as the other stock of said railroad company.

Objects cannot be attained by general laws.

SEC. 14. It is hereby declared that in the judgment of the legislature of this state, the objects of the corporation named in this act cannot be attained under or by general by-laws.

To fence its road.

SEC. 15. The La Crosse and Milwaukee railroad company shall fence its road in parcels, as it shall, from time to time, operate the same, within one year after it shall commence the operating of any and every such parcel, until the whole of such railroad shall be in a good, proper, and substantial manner fenced throughout the entire extent thereof.

Public act.

SEC. 16. This act is hereby declared to be a public act, and the same, immediately after the passage thereof, shall be printed by the state printer, and when thus published, shall take effect and be in force.

Approved October 11, 1856.

CHAPTER 123.

Published November 18.

An Act to provide for paying the Lieutenant Governor for services as member of the State Board of Equalization.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Appropriation to Lt. Governor

SECTION 1. The Lieutenant Governor shall receive the same per diem and mileage for attendance as a member of the state board of equalization that he is entitled to as

president of the senate, to be paid on the certificate of the secretary of state, and a sum sufficient is hereby appropriated to be paid out of any money in the state treasury, not otherwise appropriated.

Approved Oct. 11th, 1856.

CHAPTER 124.

Published October 15.

An Act to authorize Incorporated Cities and Villages to regulate the Sale of Goods, Wares, Merchandise and other property at auction.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The common or city council of any city, and the board of trustees of any incorporated village in this state, are hereby authorized to regulate the sale of any goods, wares, merchandise, or other property, sold at aution within their respective cities or villages. To regulate auction sales.

SEC. 2. Such regulation shall be made by ordinance passed in the same manner as other ordinances are by law authorized to be passed, and may prohibit, by proper fines or penalties, all persons from selling any goods, wares, merchandise or other property at auction, within any such city or village, without first having obtained a license therefor, and may also require any auctioneer so licensed, to make quarterly or monthly reports, verified by his affidavit, to the clerk of any such city or village, showing the amount of all such sales made by him subsequent to the date of his last preceding report, and may also require any such auctioneer to pay as a tax to the treasurer of any such city or village, any sum not exceeding two per centum upon such sales, and also may require such licensed auctioneer to execute official bonds for the faithful compliance with the terms of such ordinance, but it shall not be lawful to charge less than five dollars nor more than fifty dollars for any such license, for one year, by virtue of this act: *Provided*, That nothing herein contained shall prohibit, or in any manner affect the sale at auction of any Regulations, how made. Proviso.

goods, wares, merchandise, or other property, which may be offered for sale by virtue of the judgment, order or decree of any court, or by the provisions of any law of this state or of the United States.

SEC. 3. This act shall take effect and be in force from and after its passage and approval.

Approved Oct. 11, 1856.

CHAPTER 125.

Published October 15.

An Act to provide for the disposal and sale of the Swamp and Overflowed Lands.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

To provide for disposal of swamp and overflowed lands.

SECTION 1. All the lands granted to this state by an act of congress, entitled "an act to enable the state of Arkansas and other states to reclaim the swamp and overflowed lands within their limits," approved September 28, 1850, shall be sold by the attorney general, secretary of state and state treasurer, whenever the governor shall deem it expedient so to do. Such sale shall be conducted in the manner and under the restrictions provided for the sale of the school and university lands, in chapter twenty-four of the revised statutes, so far as said provisions may be applicable, and not inconsistent with the provisions of this act.

Pre-emption rights.

SEC. 2. In all cases of pre emption, under the act of the legislature, entitled "an act for the protection of the swamp and overflowed lands of the state, and to grant pre-emption rights thereon," approved April 2, 1856, the pre-emptors, upon complying with the provisions of this and the last aforesaid act, shall have the right to purchase in virtue of such pre emption, one hundred and sixty acres of said swamp or overflowed lands, at one dollar and twenty-five cents per acre; all and every of the pre-emption rights granted by the aforesaid act, approved April 2, 1855, are hereby secured to every person who,

before the taking effect of this act, shall have complied with the provisions of the said act, approved April 2, 1855, and every such pre emptor shall, by the affidavits of at least two credible and disinterested persons, prove that he has complied with the provisions of the aforesaid act, approved April 2, 1855; such affidavit shall be taken before some person by law authorized to administer oaths, and when completed shall be filed with the register of deeds, of the county wherein such pre emption lands lie, or of the county to which it may be for county purposes attached. Such register shall, on demand of, or on behalf of every such pre-emptor, make out a true and complete copy of such affidavits, as aforesaid, and of the declaratory statement of such pre emptor, as aforesaid, and which is required by the aforesaid act, approved April 2d, 1855, and over his official signature, shall certify to the correctness and completeness thereof, in the same manner as by law required, to make copies of the record of deeds evidence.

Affidavits that law has been complied with.

Copies of such declaratory statement and affidavits certified as aforesaid, shall be by, or on behalf of such pre emptor filed with the secretary of state, and the whole purchase money paid at least ten days prior to the time appointed for the sale of the swamp and overflowed lands, in the county where such pre-empted lands lie. A neglect to comply with the provisions of this act, shall be deemed as is hereby declared to be a waiver, surrender, and forfeiture of all rights to said lands, in virtue of pre-emption rights.

Copies of same to be filed with secretary of state.

SEC. 3. After the taking effect of this act no pre-emption shall be made to any of said swamp or overflowed lands.

When pre-emption ceases

SEC. 4. Either the attorney general, secretary of state or state treasurer, or any pre-emption claimant, or the contestant of such claimant, may proceed, by way of appeal to the circuit court of the county, wherein is situated any of said swamp or overflowed lands, claimed by pre-emption rights, and in such court have the pre-emption right claim determined by a jury. In all such appeal proceedings the appellant shall, within sixty days after the copies of the statement and affidavits mentioned in section two of this act, and as in the last mentioned section, filed with the secretary of state, procure a certified copy thereof, from the said secretary of state, and file the same in the circuit court to which the appeal is taken.

Appeal.

Circuit court to make rules of procedure.

And the circuit courts shall make rules prescribing the mode of procedure on such appeals. If on appeal, the right claimed by pre-emption shall be determined against the pre-emption claimant, then in that and in every such case, the state treasurer shall refund to such claimant, his heirs, executors or administrators, the purchase money paid by him for the lands by him claimed.

To adopt United States survey.

SEC. 5. It shall be the duty of the said attorney general, secretary of state and state treasurer, to adopt, without appraisal or survey, the lines, boundaries and descriptions of the United States survey, as exhibited by the plats and field notes of the swamp and overflowed lands, and which plats and field notes they are hereby required to procure and pay for, as far as may be necessary, out of the proceeds of the sales of such lands.

Minimum price.

SEC. 6. The minimum price of said swamp and overflowed lands shall be five dollars per acre, except such as shall be purchased in virtue of the pre-emption right. At least one half of the purchase money of all of said lands described or designated in the plats and field notes aforesaid, as timbered lands, shall be paid at the time of the sale thereof, and of all other in the ratio as provided in chapter twenty-four of the revised statutes, for the sale of school and university lands, other than the five hundred thousand acres.

Expenses of sale.

SEC. 7. The legitimate expenses incident to the sale of the swamp and overflowed lands aforesaid, shall be first paid out of the proceeds of such sales, and seventy-five per cent of the residue, and all of the purchase money for the selected lands in this section hereafter mentioned, shall form and be a constituted part of the school fund of this state, and shall be subject to the same uses, designs, regulations and laws. All lands by or under the authority of this state, selected in lieu of swamp and overflowed lands, sold or otherwise disposed of by the United States, since the passage of the aforesaid granting act of congress, is hereby for the purposes contemplated, herein declared to be swamp and overflowed lands.

Per centage paid to county &c.

SEC. 8. Twenty-five per cent of the residue of purchase money mentioned in the next preceding section shall be paid into the county treasury of the county in which the sales may have been made, and the county treasurer, upon the receipt of such money, shall give his receipt therefor, to the attorney general, secretary of state and state treasurer, and a distinct and accurate list of all the lands sold

in each township, in said county, shall be made in duplicate, by the officers making such sale as aforesaid, one of which shall be filed in the office of the clerk of the county board of supervisors of such county, and the other shall be filed in the office of the secretary of state; and in case there is an organized town in such county, containing any of such lands sold as last aforesaid, which require and are susceptible of being drained, then in that and every such case, such county treasurer shall pay to the treasurer of such town its proportionate share thereof, the same being the twenty-five per cent residue of money realized from the sale of lands therein. And such town shall proceed to the reclamation of such lands, by draining the same, with all convenient speed.

All such money not paid to the town treasurer, as last aforesaid, within two years after the receipt thereof, by the county treasurer, shall be, by such county treasurer, paid into the state treasury, and the same shall form a constituent part of the school fund, and shall be managed as provided by law in relation to said fund.

School land laws made applicable.

SEC. 9. All laws for the protection of school or univerity lands are hereby extended and made applicable to the swamp and overflowed lands in this act mentioned or contemplated.

Repealed.

SEC. 10. All laws inconsistent with or repugnant to the provisions of this act are hereby repealed.

Sale of lands.

SEC. 11. The swamp and overflowed lands of this state shall be sold in limited quantities for actual settlement, or for the use of an adjoining farm, to each purchaser, not more than three hundred and twenty acres each.

SEC. 12. This act, immediately after its passage, shall be printed by the state printer, and when so published, shall take effect and be in full force.

Approved October 11, 1856.

CHAPTER 126.

Published October 16.

An Act to provide for the revision of the general laws of the State of Wisconsin.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Governor to appoint competent persons to revise laws, &c.

SECTION 1. The governor shall, without delay, after the passage of this act, appoint three competent persons as revisers, whse duty it shall be to collect, compile and digest the general laws of this state, for the purpose of preparing a new edition of such laws for publication, and that said revisers report such compilation, as soon as may be to the legislature of Wisconsin, and said revisers shall accompany their report with such proposed amendments as they may think proper to suggest.

To fill vacancy

SEC. 2. Should either of said revisers refuse to act, or become incapable of acting through sickness or other casualty, it shall be the duty of the governor to appoint some suitable person in his stead.

Compensation.

SEC. 3. The said revisers shall receive such compensation as the legislature may deem just and reasonable, not less than five dollars per day, and this act shall take effect and be in force from and after its passage; *Provided*, that pay for no more than two hundred days service shall be allowed.

Approved October 13, 1856.

CHAPTER 127.

Published November 18.

An Act to fix the time when an act entitled "an act to simplify and abridge the practice, pleadings, and proceedings in the courts of this state," approved October 10th, 1856, shall take effect.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Extending time of taking effect of code.

SECTION 1. The act entitled "an act to simplify and abridge the practice, pleadings and proceedings in the

ourts of this state," approved October 10th, 1856, shall ake effect and be in force on the first day of March next, nd not before, and all acts and parts of acts repealed by he act of which this is amendatory, shall remain in full orce and effect until the first day of March next, and no onger.

SEC. 2. So much of the act of which this is amendatory, as conflicts with the provisions of this act, is hereby repealed.

All parts of code inconsistent herewith repealed.

SEC. 3. This act shall take effect and be in force from nd after its passage and publication, and this act shall be ublished in connection with the act of which it is amendatory.

When this act takes effect.

Approved October 13, 1856.

CHAPTER 128.

Published November 18.

An Act to amend an act entitled "an act to authorize the Secretary of State to employ and pay clerks for actual and necessary discharge of the duties of his office," approved March 29th, 1856.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The secretary of state shall audit, and the tate treasurer shall pay such sum or sums as shall be actually and necessarily expended for clerk hire in the bank comptroller's office, in the same manner as is provided n the act of which this is amendatory for clerks employed in the said secretary of states office; *Provided*, That before the secretary of state shall audit any account for clerk hire in the bank comptroller's office, the bank comptroller shall file with him a certificate, setting forth the particular service rendered by such clerk or clerks, and that the same was necessary to enable him to keep up the business of his office.

Secretary to audit account for clerk hire.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved October 13, 1856.

CHAPTER 129.

Published November 18.

An Act to provide for the punishment of persons placing obstructions upon or injuring railroads.

The people of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

To punish persons doing injury to railroads.

SECTION 1. Any person who shall willfully and maliciously place any obstruction upon the track of any railroad in this state, or take up a rail, or remove a spike or otherwise injure, break down or destroy the bridge, road-bed or other structures of such railroad, shall be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison for a term of not less than two nor more than ten years.

In case of death deemed guilty of murder, 1st degree

SEC. 2. In case death shall ensue from any act prohibited by the first section of this act, the person guilty thereof shall be deemed guilty of murder in the first degree, and on conviction thereof shall be punished by imprisonment in the state prison for the term of his natural life.

Negligence of officers—punishment.

SEC. 3. In case death shall ensue from the willful carelessness, negligence or any malicious act of any officer, agent, servant or other employee of any railroad company in this state, the person guilty of such negligence, shall be deemed guilty of a felony, and on conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars, and shall be imprisoned in the states prison for a term of not less than three nor more than ten years.

SEC. 4. This act shall take effect from and after its publication.

Approved October 13, 1856.

CHAPTER 130.

Published November 19.

AN Act to organize the county of Juneau and to locate the county seat thereof.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION. 1. From and after the first day of January, A. D. 1857, all that portion of territory lying and being east of the main channel of the Wisconsin river, and now and formally embraced in the county of Adams, shall form and constitute a new and separate county, to be known and designated as the county of Juneau. County of Juneau organized.

SEC. 2. From and after the first day of January, A. D. 1857, said county of Juneau shall be organized for judicial purposes, and shall enjoy all the privileges, and immunities of the other counties of this state, and shall form a part of the seventh judicial circuit, and the courts herein shall be held by the judge of said circuit, and all writs, processes, suits, appeals, recognizances and other proceedings in law and equity which may be pending and undetermined in any court in Adams county, at the time this act shall go into effect, shall continue and remain in such court in Adams county, and be there determined according to the usual course of proceedings, notwithstanding they may have originated in that portion of territory hereby set off and made the county of Juneau. After this act shall go into operation, all writs, appeals, recognizances, and all proceedings in law and equity shall be returnable to and have place in the proper court in said county of Juneau. Organized for judicial purposes, &c.

SEC. 3. On the first Tuesday of February, A. D. 1857, the legal voters of said Juneau county shall hold a special election in the respective towns and precincts of said county, and elect the several county officers required by law to be elected in each county in this state, which election shall be called, conducted, the votes canvassed and returned in the same manner as is now provided by law for any special election of a county officer or officers, and until such election, and until the several persons so elect- Election of county officers

ed shall qualify and resume the duties of their respective offices, the said county of Juneau shall remain under the jurisdiction of said Adams county, for all county purposes, and the business to be transacted with county officers, and all county officers so elected at such special elections shall enter upon the duties of the office to which they are severally elected, as soon as they shall legally qualify under such election.

Terms of court

SEC. 4. There is hereby established in the county of Juneau, two terms each year of said circuit court, which shall be held by the judge of the seventh judicial circuit at such time as he shall appoint, until said terms are regularly established by law. The said judge shall further appoint the times for holding such terms of court, and give notice of the same by filing a notice of the same with the clerk of the circuit court of said county.

To transcribe papers of record.

SEC. 5. The register of deeds of Adams county shall, as soon as may be, transcribe into suitable books, all records of conveyance and other papers recorded in his office at the time this act shall go into operation, relating to real estate, situated in the territory hereby embraced in said county of Juneau, and deliver the same to the register of deeds, who shall be elected in said county of Juneau, and shall receive therefor the compensation now established by law for like services.

County seat.

SEC. 6. The county seat of said county of Juneau shall be and hereby is located at the village of New Lisbon, in town sixteen, range three, east of the fourth principal meridian.

SEC. 7. This act shall be in force and go into effect on the first day of January, A. D. 1857.

Approved Oct. 13, 1856.

CHAPTER 131.

Published October 17.

An Act to provide for levying a State Tax for the year 1856.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

State tax.

SECTION 1. There shall be levied and collected for the year 1856, a state tax of three hundred thousand dollars,

300,000) to be apportioned among, and assessed upon the several counties of this state, as provided in chapter seventy-three (73), of the session laws of 1854, entitled "an act to establish a board of equalization of state tax, and to provide for levying a state tax for the year 1854," approved April 1st 1854: and shall be levied upon the property real and personal in this state, according to the equalization to be made the present year, by state board of equalization, which tax shall be levied, collected and paid into the state treasury as provided by law.

Equalization.

SEC. 2. The state board of equalization shall within ten days after the passage of this act proceed to, and make the equalization aforesaid, and immediately certify the same to the several counties in this state, as provided by law, to have full force and effect for the year 1856.

SEC. 3. This act shall take effect immediately after its passage, and shall be immediately printed, and ten printed copies thereof sent to the clerk of the board of supervisors of every county in this state—by the secretary of state.

Approved October 13, 1856.

CHAPTER 132.

Published November 14.

An Act to prevent the spreading of a weed, known by the name of Snapdragon.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

To prevent the growth of snapdragon.

SECTION 1. No person or persons residing upon or occupying any land within this state, either as owner, lessee or otherwise for purposes of cultivation, shall knowingly permit or allow the weed known by the name of Snapdragon, to go to seed on such land, under the pains and penalties prescribed in the following section:

Punishment for not complying with this act.

SEC. 2. Any person or persons violating the provisions of the preceding section, shall be deemed guilty of a misdemeanor, and shall on conviction thereof, be punished by a fine not exceeding one hundred dollars nor less than five dollars.

Justices of peace to have jurisdiction.

SEC. 3. Justices of the peace shall have jurisdiction within their respective counties of all violations of this act, and it shall be competent for any person to complain of and prosecute any person or persons violating the provisions of this act.

Approved October 13, 1856.

CHAPTER 133.

Published November 15.

An Act to authorize the Town Board of Supervisors to levy a Special Tax for the purpose of constructing and maintaining Permanent Bridges.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Supervisors may levy a bridge tax.

SECTION 1. The respective boards of supervisors in any town in this state are hereby authorized and empowered to levy and collect a tax on all the taxable property of such town, for the purpose of rebuilding and maintaining suitable and permanent bridges across any river, stream or creek in any such town, whenever the board of supervisors of any such town shall deem it necessary, for the public interest and convenience, to rebuild repair or maintain any such bridge: *Provided*, That no such tax shall exceed the sum of three hundred dollars for any bridge, and not more than one such tax shall be levied and collected in any one year in any of said towns: *And provided further*, That all the supervisors agree in levying and assessing such tax.

Proviso.

When levied.

SEC. 2. Said tax shall be levied and collected whenever any of said board of supervisors shall decide, in the same manner as other town taxes are levied and collected.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved October 13th, 1856.

CHAPTER 134.

Published November 14.

An Act regulating the Terms of the Circuit Court in the county of Waukesha, and the Terms of the Circuit Court in the County of Milwaukee.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The terms of the circuit court in and for the county of Milwaukee, shall be holden and commence as follows: On the second Monday in February, on the third Monday in April, on the fourth Monday in June, on the third Monday in September, and on the fourth Monday in December in each year. **Terms of court in Milwaukee county.**

SEC. 2. The first Jurors for the April and December terms of the circuit court, in said county, shall be summoned to attend on Monday of the second week on said terms. **Jurors.**

SEC. 3. The supervisors of the county of Milwaukee, shall select and return to the clerk of the circuit court, in the manner provided by law, at their annual meeting in November, a list of one hundred and eighty petit jurors. **Supervisors to return list of jurors.**

SEC. 4. The terms of the circuit court, in and for the county of Waukesha, shall be holden and commence as follows: On the fourth Monday in March, on the second Monday in June, and on the third Monday in November in each year. **Terms of Waukesha court.**

SEC. 5. All writs and process issued out of the said circuit and county courts, after this act shall take effect, shall be made returnable at the respective terms of the said courts as herein fixed, except when otherwise made returnable by order of a court or judge, in pursuance of law; and all writs and process which may be issued and made returnable at any term which is hereby changed or abrogated, shall be deemed and taken to be returnable on the first day of the next ensuing term of said courts respectively. **Writs, &c. when returnable.**

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved October 13th, 1856.

CHAPTER 135.

Published November 15.

An Act to provide for the purchase of a certain number of copies of Webster's Unabridged Dictionary, and for their distribution to the several school districts of this State.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Superintendent to purchase 300 copies of Webster's dictionary.

SECTION 1. The superintendent of public instruction is hereby authorized to purchase and distribute three hundred copies of Webster's Unabridged Dictionary upon the same terms and under the same provisions of an act entitled "an act to provide for the purchase of a certain number of copies of Webster's Unabridged Dictionary, and for their distribution to the several public schools of this state," approved March 21st, 1855, and all the provisions for the payment and for the distribution of the said three hundred dictionaries in said act of March 21st, 1855, are hereby applied to this.

Distribution of same.

SEC. 2. Where there is more than one school taught in any one school district in this state, or where there is more than one school department in any school building, then, in such cases, such school or each department in a school, shall be entitled to one of said dictionaries.

Superintendent's report.

SEC. 3. It is hereby made the duty of said superintendent to report annually as a part of his annual report, the whole number of copies by him distributed,—to what counties distributed,—and the time of distribution.

SEC. 4. This act shall take effect from and after its passage and publication.

Approved October 13, 1856.

CHAPTER 136.

Published November 15.

An Act relating to the salaries of the officers therein named.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The salaries of the governor's private secretary, the assistant secretary of state and assistant state treasurer are hereby severally fixed at the sum of twelve hundred dollars per annum. Salaries of certain officers increased.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved October 13, 1856.

CHAPTER 137.

Published November 3, 1856.

An Act to execute the trust created by an act of Congress, entitled "An Act granting Public Lands to the State of Wisconsin, to aid in the construction of Railroads, in said state," approved June 3d, 1856, by incorporating the Wisconsin and Superior Railroad Company, and granting a portion of said lands thereto.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Herman Haertel, Alfred Lamberson, Cyrus T. Hiller, Charles Kuehn, Bertine Pinckney, James H. Reed, Anson Ballard, James Duane Doty, George F. Wright, B. Frank Moore, Julius White, William Scott, John Bradley, Albert Winslow and Joseph Turner, and such other persons, if any, as shall associate with them and become stockhloders, as hereafter in this act provided, are hereby created, constituted, made, appointed and declared a body corporate and politic, by the name and style of the Wisconsin and Superior Railroad Company; and Corporators. Style.

said corporation, by and under its aforesaid corporate name and style, shall have perpetual succession, and shall have and enjoy all and singular, the rights, powers, authority, privileges, franchises and immunities, by and in this act expressly conferred, and all other such rights, powers, authority, privileges, franchises and immunities, as are necessary and proper to the full and complete possession, exercise and enjoyment of those hereby expressly conferred. Said company may, and it shall have power to purchase, hold and own wood land, for the purpose of obtaining wood to operate or fence its railroads; but such wood lands shall always be subject to assessments and taxation, and shall never be considered as a part of the property hereinafter exempt from taxation and assessment; said company may also, and it shall have power at pleasure to sell, lease and convey such wood land, or any portion of them. Said company shall also have power to purchase, take, hold, sell, lease and convey all such estates, real, personal or mixed, other than the aforementioned wood lands, as may be necessary or proper to have, hold, use or possess, for, in or about the construction or equipment, renewal, repair, maintaining or operating its railroads; said company may also take, hold, or occupy all such lands, as may be given or granted to it by this state or by the gorvernment of the United States, or both, for the purpose of aiding in the construction of any of its railroads. And after such last mentioned lands are so as above given or granted to said company, it may, subject to the terms, conditions, impositions, restrictions and limitations, contained in such gift or grant, sell and convey the same, and may otherwise do with said lands as is hereinafter provided. All other estates, property and effects which said company may purchase or acquire by gift or grant, other than that which is above in this section mentioned, shall always be subject to taxation and assessment, notwithstanding the exemptions hereinafter contained. Said company shall have power to make, have and use a common seal, and alter, break and renew the same at pleasure, and by and under its aforesaid corporate name and style, said company shall be capable of contracting and being contracted with, for and as to the purposes in this act contained, of sueing and being sued, of pleading and being impleaded, defending and being defended, answering and being answered unto, in law or in equity, in all courts and places whatsoever, as fully and

Corporate powers.

completely as natural persons, except that it shall never set up the plea of usury to any contract to which it shall be a party in any court whatever.

SEC. 2. The company, by this act created, is hereby further authorized and empowered to survey, locate, construct and complete, perpetually to have, use and enjoy, maintain and operate a railroad, with one or more tracks or lines, over the routes following; that is to say: Beginning at the city of Fond du Lac, which is situated on Lake Winnebago, in this state, and running from thence by way of the town or city of Oshkosh and townships number twenty-one, north of range number seventeen east, and east of the south-east corner of section number twenty, in said last named township, northerly to the state line on the St. Louis river, or to such other point on the state line within the meaning of the act of congress, entitled "an act granting public lands to the state of Wisconsin, to aid in the construction of railroads in said state," approved June 3d, 1856," as the said company shall determine. Further powers. Route.

SEC. 3. The company hereby created, shall have the the perpetual right, power and authority to transport, take and carry property and persons upon said roads by the power and force of steam, of animals, or of any mechanical or other power, or of any combination of them, and to receive and store any property in any of its depots or other buildings, and to make, construct, maintain and use all such switches, turn-outs, side-tracks, and connecting tracks, as it shall think necessary, and also construct, erect, maintain and use all such depots, station-houses, warehouses, car-houses and shops, engine-houses and all other buildings, fixtures and things useful for the accommodation of said company and its roads, and those using the same; to purchase or manufacture and own rails, chairs, spikes, engines, cars, tenders, and all other things things necessary or useful for the construction or operation of a railroad, and to sell the same. And it shall also have the power and authority to operate its said roads or either of them, in connection with any and all other railroads, which may cross, come up to or connect with the said roads or either of them, upon such terms as shall be mutually agreed upon by and between the said companies: *Provided*, That the said company, in making any such contracts as last aforesaid, shall give no preference to one company over any other such company or companies last above mentioned: but all such companies shall be Transportation, &c. Proviso.

put upon the same equal terms, and whenever and so often as any such business connection contract shall be made or entered into, the same shall be in writing, duly signed and sealed with the seals of the companies parties thereto, in triplicate, and when so executed and sealed, one copy thereof shall be filed with the secretary of state, whose duty it shall be to mark thereon the time of its reception, and to carefully preserve and keep the same in his office open to the inspection of all persons. And the copy so filed with the secretary of state is hereby declared a public record. No such contract shall have any force or effect in law unless such copy is filed with the secretary of state as aforesaid. Either of the companies being a party to any such contract, may be compelled by a mandamus, to file with the secretary of state a triplicate copy thereof, as aforesaid.

May construct road over any highway, &c.

SEC. 4. The company hereby created shall also have the right, power and authority to construct its said roads upon and along, across, under or over any public highway, or along, across, under or over any public highway or any private way or road, street, plankroad or railroad, if the same shall be necessary, but the said company shall restore such highway, private-way, or road, street, plankroad or railroad, to its former state or condition, so as not to impair the usefulness of the same so far as the same can be done consistently with the rights and privileges hereby granted to the company hereby created. Said company shall have the further right, power and authority to erect, maintain and use all the necessary bridges for the use of its railroads, over any streams of water, or water course, at such point or points of crossing the same as they may locate the said railroads, with all necessary abutments, piers, or other structures or foundations.

May enter on any land for certain purposes.

SEC. 5. It shall be lawful for the company hereby created, and it shall have the right, power and authority, by its officers, engineers, agents, servants and workmen, to enter upon any land for the purpose of exploring, surveying, locating and determining the route of said railroads, and when the said routes or any portion thereof shall be determined by resolution adopted by its board of directors, it shall be lawful for the last aforesaid company, and it shall have the right, power and authority, by its officers, engineers, agents, contractors, surveyors, servants and workmen, at any time to enter upon, take, possess, occupy and use any land along, and including the line of said

route, not exceeding two hundred feet in width. It shall also be lawful for said company, and it shall have the right, power and authority at any time to enter upon, take, possess and occupy and use any other lands beyond said limits of two hundred feet, which the directors shall, by resolution adopted by them, (a copy of which shall be recorded, at the expense of said company, in the office of the register of deeds in the county in which such lands are located,) declare to be necessary for the use of said company for the purposes of erecting depot buildings, station houses, machine shops, freight houses, ware houses, engine houses, or buildings or fixtures of any kind, or ground about the same, for the convenient operation of the road, or for making drains or giving proper direction to water courses, or of directing or changing the channel of water courses, or for the purpose of removing such substances and things as may endanger, obstruct or interfere with the free use of said road, or for the purpose of depositing earth, gravel or stone, or for the purpose of obtaining earth, gravel, stone, timber, or other material for embankments, structures or superstructures, necessary to the construction, repair or renewal of said roads. Said company shall, however, at such time and in such manner as is provided by and in this chapter and act, be liable to pay the full value of all earth, gravel, stone, timber and land which may be so as aforesaid taken, possessed, occupied and used for any of the purposes aforesaid, which is the private property of either persons or corporations, which value, (unless the owner thereof and said company shall agree as to the same), shall be ascertained and determined in the manner hereinafter provided; and whenever the same shall have been paid, tendered or deposited as provided in this act, an estate in and to all and every such lands in fee simple, absolute, forever, shall be and become vested in said company by virtue thereof, and of the provisions of this act, and by the same means a complete title shall vest in said company in and to all such earth, gravel, stone and timber; and whenever said company shall deem that the same, or any part or portion of the aforenamed property, shall no longer be necessary for the purposes for which the same were taken, it is hereby authorized and empowered, by deed or other proper instrument in writing, to lease or sell the same, or any part thereof.

To compensate for said land.

Transportation.

SEC 6. On the completion of said road, or any part thereof, it shall be lawful for said company, and it is hereby authorized and empowered to demand and receive such sum or sums of money for the transportation of persons and of property, and for the storage of property, as it shall from time to time deem reasonable.

Same.

SEC. 7. Said company hereby created, shall also have full power and authority to transport persons and property in boats, vessels, barges, and other water crafts, on any of the navigable waters which its said railroad or roads may run to or connect with; and to receive and collect reasonable compensation for the same, and for that purpose may build or purchase, own and use such boats, vessels, barges and other water crafts, as it may require.

Construction of road and when to be completed.

SEC. 8. The company hereby created, shall commence the construction of its railroad, at the aforesaid city of Fond du Lac, and shall complete the same to township number twenty-one, north of range seventeen east, before it shall construct and operate such railroad from said township notherly. And so soon as said portion of the road herein last referred to shall be completed, the same shall henceforth, from the time of such completion, be operated by the company hereby created. And the said company shall fully complete and equip the entire length of said railroad, on or before the 3d day of June, 1866.

Shall be entitled to land grant.

SEC. 9. The company hereby created, shall be entitled to, and invested with the title to the lands, and all and singular the rights, privileges, and immunites granted or conferred, or intended to be granted or conferred by the act of congress, approved June 3d, A. D. 1856, entitled "an act granting public lands to the State of Wisconsin, to aid in the construction of railroads in said state," to the extent of the whole of the lands granted by said act of congress, for the purpose of aiding in the construction of a railroad from Fond du Lac, on Lake Winnebago, northerly to the state line. Said company shall also be subject to all the restrictions, impositions, duties and obligations contained in the said act of congress, so far as the same are appicable to the company hereby created, or to the road hereby authorized to be constructed: *Provided*, That the title to the lands in this section, mentioned and contemplated, shall not vest in said company sooner or faster than the said lands might be sold, as provided and declared in the aforesaid act of congress; but so soon and so fast the title to said lands shall vest in said company,

Proviso.

and the said lands are hereby granted in consideration of the company so hereby created, complying with the terms of the grant hereby made, and of the aforesaid act of congress.

Governor to certify to completion of every 20 miles of road.

SEC. 10. The governor of this state on the request of the president of the company hereby created shall, without delay, from time to time, upon the completion of any and every twenty continuous miles of the railroad or railroads, in this act first authorized to be constructed, certify the fact of such completion to the secretary of the interior, in accordance with the provisions of the aforesaid act of congress.

Governor to appoint agents to select lands in lieu of those sold by United States.

SEC. 11. If when the line or lines of road authorized to be constructed by and under the provisions of this act, is or are located and definitely fixed by resolution, adopted by the board of directors of the company hereby created, it shall appear that the United States have sold the whole, or any, or what part of any odd numbered section, granted by the aforesaid act of congress, for the purpose of aiding in the construction a railroad from Fond du Lac, on Lake Winnebago, northerly to the state line, or that a right of pre emption has attached to the same, as is mentioned or contemplated by the aforesaid act of congress, then the governor aforesaid shall, without delay, appoint such persons agents, as to him shall seem proper, or as shall, by said company, by resolution adopted by its board of directors, be designated to him, and whose duty it shall be to select other lands in lieu of those so sold by the United States, or to which the right of pre-emption was attached according to the true intent and meaning of aforesaid act of congress; and such agents shall, at the expense of the company hereby created, select such other lands according to their appointment, and as is provided by the first section of the aforesaid act of congress. And said agents shall certify their selections to the governor, from time to time, and with all convenient speed; and the governor shall thereupon, without delay, make known to the secretary of the interior the selections then made; and so far as the selections shall be approved by the secretary of the interior, said selections shall be made, and like proceeding had from time to time, as is in this section provided, until the whole amount of land is selected and approved, as is mentioned or contemplated by the first section of the aforesaid act of congress.

Shall be capable of taking and holding land grant by United States, &c.

SEC. 12. The company hereby created shall be capable in law of taking and holding any land granted by the government of the United States or of this state, to aid in the construction of railroads, which shall be conveyed to said company by this act or deed, or by operation of law; and may also mortgage or pledge, or otherwise dispose of all their right, title, interest, claim or demand, of, in or to any lands, or interest in lands, granted to said company, by this act, and in any other estate, real, personal, or mixed, of which they may be seized at the time of execution of such mortgage, or which they may acquire subsequent thereto, in such manner and on such terms as the directors may think proper. And within five years after the title of such land shall have become vested in said railroad company, so much of them as may remain unsold shall be offered for sale in limited quantities at fair prices, preference being given to actual settlers.

Management.

SEC. 13. All the affairs and business of the company hereby created, shall be conducted, managed and carried on by a board of fifteen directors, who shall be stockholders of said company, and the board of directors is hereby invested with power and authority to conduct, manage, and carry on the affairs and business of said company, and also with such power and authority as will carry or promote the carrying into full and complete effect, the meaning and intent of this act. The directors, after the first board shall be chosen by the stockholders of the company, by ballot, as follows, viz: five directors shall be chosen at the annual meeting of the stockholders, which shall be held on the first Wednesday in the month of December, in the year of our Lord one thousand eight hundred and fifty-seven, and thereafter annually, on the first Wednesday in the month of December of each year five directors shall be chosen. The annual meetings of the stockholders for the election of directors, shall be held at the city of Oshkosh, in this state, unless otherwise established by the board of directors. At all meetings of the stockholders, the votes of stockholders may be cast in person or by proxy, duly authorized, and every stockholder shall be entitled to one vote for each and every share of stock held by him, and in all elections for directors, those stockholders, equal to the number of directors to be elected, having the greatest number of votes, shall be deemed and declared duly elected directors. The elections shall be conducted in such manner as shall be pre-

Election of directors, &c.

scribed by the by-laws or by resolution of the company. If for any cause, an election of directors should not be had at the time when, by the provisions of this act, it should be had, the same may be held at such other time as shall be fixed by the by-laws of the company, and until such election be had, the directors of the preceding year shall continue to act, and the corporation shall not forfeit or lose any of its privileges, franchises or immunities, by reason of the irregularity or want of any such election.

Quorum and meetings.

SEC. 14. A majority of the board of directors shall constitute a quorum for the transaction of any business except as is in this act otherwise provided; they shall meet at such times and places, and be convened in such manner, as they shall prescribe in the by-laws; they may fill any vacancy which may occur in their own board; they shall appoint one of their own number to be president, and one vice president. The term of service of the president and vice president shall be one year, and until a new election of directors. The president when present shall preside at all meetings of the directors and stockholders, and in case of his absence the vice president shall discharge the duties of president, and in case of the absence of the president and vice president, the directors present may appoint a president pro tem., who shall discharge the duties of president during the absence of the president and vice president. The board of directors may appoint a secretary, treasurer, chief engineer, superintendent, attorneys, and such other officers and agents as they may find necessary, fix their compensation and duties, and demand adequate security for the discharge of their respective duties and trusts, and remove the same at pleasure. The directors shall have power to determine the amount of the first and all other installments, by them ordered to be paid, or assessed, from time to time, on stock subscriptions, and to sell and dispose of the unsubscribed stock of said company in such manner, and on such terms, as will best secure the speedy completion of the railroad hereby authorized to be constructed. The directors shall have power to require the payment of stock by instalments, from time to time, in such amounts as may be necessary for the operations of the company; and they shall have power, from time to time, at any time within twenty-four months after the organization of the said company hereby created, to require payment of the instalments of the

Officers.

Instalments, how paid.

capital stock of the said company from the stockholders, not exceeding in all twenty-five per centum upon each share of stock subscribed for and held by such stockholders, and not more than six and a quarter per cent. in each six months during any one of the first two years; and upon default in the payment of any such instalment or instalments, upon any share or shares of such stock, for ninety days after personal notice shall have been given by the board of directors to the stockholders, the said board of directors shall have power to declare such share or shares on which default may be made, forfeited to the use of the said corporation, and the stockholders who shall have held the same shall thereupon absolutely forfeit the same and all sums paid thereon to the use of the said corporation; and after the expiration of the said twenty-four months last above mentioned, the board of directors shall have power, from time to time, to require payment of instalments of the capital stock of the said corporation, at their discretion, until the stock shall have been fully paid; and upon default in the payment of any such instalment upon any share or shares of the said capital stock, whether such instalment be required after or before the expiration of the said twenty-four months last mentioned, the board of directors shall have power to enforce the collection or payment of such instalment or instalments against the stockholder or stockholders making such default, or owning such stock, and shall have the right to apply toward the payment of such instalment or instalments, any dividend or other moneys accruing to such stockholder or stockholders, in the hands of the said corporation; *Provided, however*, That no person shall be personally liable for the payment of any instalment or instalments required on any share or shares of such capital stock, which such person may have held, and which shall be required as aforesaid by the said board of directors, after such person shall have transferred such share or shares to any other person or persons, and no stockholder shall be entitled to vote at any election for directors of the said corporation upon any share of such capital stock upon which any instalment shall remain unpaid; nor shall any share of such capital stock be declared forfeited, for a default in the payment of any instalment required after the expiration of the said twenty-four months, and after the payment of the said twenty-five per centum on each share. The directors shall have power to establish, and

Forfeiture.

Proviso.

regulate tolls and charges not inconsistent with the provisions of this act, for the transportation of freight and passengers, and for the storage of freight, and to collect all such tolls and charges; and to make such covenants and agreements with any person or persons, co-partnership or corporation whatever, as the construction and management of the road and convenience and interests of the said company may require. The directors shall have power and authority to make and establish such by-laws as they may think proper, respecting the property, concerns, affairs, business, stock and government of the corporation created by this act, and the powers and duties of its officers and committees; and its officers and committees may exercise all the powers which may be prescribed by such by-laws; and the directors may make such other rules, regulations and orders as they may think proper; but no such by-laws, rules, regulations or orders shall be inconsistent with this act, or with the constitution or laws of this state; and the directors shall have power in general to superintend and direct all the operations, receipts, disbursements and all other affairs of said company.

To make by-laws.

SEC. 15. The first board of directors shall be the following named persons, that is to say: Herman Haertel, Alfred Lamberson, Cyrus P. Hiller, Charles Kuehn, Anson Ballard, James Duane Doty, George F. Wright, Bertine Pinckney, James H. Weed, B. Frank Moore, Julius White, William Scott, John Bradley, Albert Winslow and Joseph Turner. At the first meeting of the board of directors aforesaid, they shall first choose the president of said company and a secretary, after which they shall ballot for their respective terms of office as directors, as follows: the president shall cause to be prepared fifteen pieces of paper, of as nearly the same size as may be, upon five of which shall be written "*Term of one year;*" and upon five more shall be written "*Term of two years;*" and upon the remaining five shall be written "*Term of three years;*" the said pieces of paper shall be then folded as nearly alike as conveniently can be done; after which the same shall be put into a box and well shaken. Each of the said directors, or in case of the absence of any director, the secretary in his name shall then draw from the said box one of the said pieces of paper, and the secretary shall make a record of the said drawing, noting the term by each director drawn, and those who shall draw the ballots

First directors.

Terms of office

having thereon the words "*Term of one year*," shall hold their offices as directors until the first Wednesday in the month of December, in the year of our Lord one thousand eight hundred and fifty-seven, and until their successors are duly elected. Those who shall draw the ballot having thereon the words "*Term of two years*," shall hold their offices as directors until the first Wednesday in the month of December, in the year next succeeding the year last aforesaid. Those who shall draw the ballots having thereon the words "*Term of three years*," shall hold their offices as directors until the first Wednesday in the month of December, in the year of our Lord one thousand eight hundred and fifty-nine, and until their successors are duly elected.

Special meetings.

SEC. 16. Special meetings of the stockholders may be called by order of the board of directors, or by stockholders holding one fourth of the capital stock, on twenty days notice given to the stockholders, specifying the object of the meeting.

May borrow money.

SEC. 17. The company hereby created is hereby authorized and fully empowered, in its corporate capacity, to borrow any sum or sums of money from any person or persons, corporation or body politic of any kind, and for any rate of interest which may be agreed upon by and between said company and any party of whom such money may be obtained; and to make, execute and deliver, in or out of this state, all necessary writings, notes, bills, bonds, mortgages, and all other papers or securities, in amount or kind as may be deemed expedient by said corporation, in consideration of any such loan, or in discharge of any liabilities they may incur, in the construction, repair, equipment, or operating of said road, or in any of the transactions of the said company, authorized by this act; and the said company is hereby authorized, in its corporate capacity, to make, execute, issue and deliver its bonds or obligations in such an amount as the directors shall think best for the interests of said company, and the directors of the said company are hereby authorized and empowered to prescribe the sum or sums for which each of said bonds shall be issued, and the time or times, or place or places, when and where the principal and interest of the same shall be payable, and whether payable to order or to bearer, or how otherwise negotiable, the rate of interest which said bonds shall bear, and the manner and form in which the same and the interest

coupons annexed to them shall be executed, and to secure the payment of any or all of said bonds, the said company is hereby authorized and empowered, in its corporate capacity, to make, execute and deliver a mortgage or mortgages, or deed or deeds of trust, upon the whole or any part of its railroad, constructed or authorized to be constructed, and upon the lands in this act granted to said corporation, and upon any other or all of its estate, real, personal or mixed, in possession or expectancy, and the said company is also hereby authorized and empowered, in and by such mortgage or deed of trust, to confer upon the trustee or mortgagee, full and ample powers to enter into and upon, and to take possession of, have, use, and enjoy, or to sell and dispose of the whole or any part of said railroad or estate, real, personal, or mixed, together with the functions apertaining to such railroad, and all corporate and other franchises, rights and privileges of the said railroad company, or to take up or remove any of the fixtures connected with said railroad, and the directors of said company are authorized and empowered to prescribe all matters relating to the form and terms of any such mortgage or deed of trust, and of its execution and delivery; and they are authorized and empowered to provide for the annual payment to such trustee or receiver as they shall appoint, a certain sum to create a sinking fund, with which to pay of and discharge, at or before maturity, any or all of the bonds by them authorized to be issued, and also to provide the manner in which such trustee or receiver shall pay out or dispose of said sinking fund, and to authorize him to designate by lot, or in any other suitable manner, the bond or bonds to the payment of which said sinking fund, or any part of it, shall be applied; and the said company, is hereby fully authorized and empowered, by its agents, or brokers, or otherwise, either in or out of this state, to sell, loan, pledge, hypothecate, or otherwise to dispose of any or all of the aforesaid bonds, hereby authorized to be issued, at par, or at any price greater or less than par, and for such sum or sums as they shall think proper; and the said company and its directors, officers and agents, are hereby authorized and empowered to have, exercise and enjoy all the rights, privileges and powers herein conferred upon them respectively.

To execute bonds, &c.

Sinking fund.

SEC. 18. The company hereby created shall, for all and every the lands and property which it shall appropriate, take, possess, occupy or use, pay the full and actual cash

Shall pay for lands, &c. taken.

value thereof at the time it shall appropriate, take, occupy, possess or use such lands and property, and such value shall be ascertained, fixed or determined by mutual agreement between the said company and the owners of such land and property respectively; or by and through the medium and appraisement and determination or award of commissioners appointed as hereinafter provided. And the locating of the line of the railroad of said company, or such part thereof as may be, in parcels, from time to time located by resolution adopted by the board of directors of said company, is hereby declared to be an appropriation, occupancy, taking, possessing or using said lands and property by said company, as authorized in this act, along, adjacent, opposite and including the line, or so much of the line of said railroad, so as aforesaid located or adopted for the purpose of fixing a time at which the value of said lands and the property shall be fixed, estimated, determined and paid by said company.

Appraising commissioners appointment and duty.

SEC. 19. It shall be lawful for, and it is hereby made the duty of the judges of the circuit court respectively, through which the line of the railroad or roads of the company hereby created shall be located, each of said judges in and for his own circuit, on the application of said company, and at its cost and charge, to appoint as appraising commissioners under this act, three disinterested persons of sound mind, known integrity and approved judgment, and actual residents of the circuit of such judge. After such commissioners shall have been appointed, as aforesaid, others may and shall, from time to time, be appointed by the same officers who made the first appointment, as need or occasion may require, in either of the following cases: 1st, when any one of the persons theretofore appointed shall cease to be a resident of the circuit for which he was appointed: 2d, when such person shall decline to act or to further act as such commissioner: 3d, when such person shall neglect or fail to act, or to further act, as such commissioner, for the space of eight days after being requested so to act by the chief engineer or attorney of said company: 4th, when such person shall resign his said appointment: 5th, when such person shall die or be imprisoned, become insane, or shall, from other cause, become incapacitated, or unable to in proper manner discharge the duties imposed by this act upon such appointee. Before any such first appointment, as aforesaid, shall be made, said company shall give notice to all

To fill vacancy

whom it shall or may concern, that an application by said company will be made at a time, place, and before a circuit judge, in such notice named, for the appointment of three appraising commissioners, as provided in this act. Such notice shall be published for three successive weeks prior to the time set for hearing such application, in one or more newspapers printed in each, or so many of the counties within the circuit for which the appointment is to be made, if there be in such circuit any such newspaper printed; and if there be none, then, and in every such case, such notice shall be so as aforesaid published in two or more newspapers printed at the capital of the state; and the affidavit of the publisher or printer of each such newspaper of the fact of such publication shall be sufficient legal evidence of such publication.

Notice to parties of application for appointment.

Publication of notice, &c.

The judge named in the notice may continue or adjourn the hearing of such application for such length of time as he shall think fit, not exceeding in the whole thirty days. Each person appointed, as in this section provided, before entering upon the discharge of the duties devolving upon him, shall make an oath or affirmation in writing, in substance that he will, in all respects to the best of his ability, execute the trust reposed in him, and discharge the duty imposed upon him, as in this act contained. After said commissioners are sworn, or affirmed, as aforesaid, it shall be and is hereby made their duty, upon the application of said company, or of any land owner in this section mentioned, to view and examine all and every the lands and property which, by the provisions of this act, said company is authorized and empowered to appropriate, take, and occupy, possess or use, by making payment therefor. And after such view and examination, said commissioners, or a majority of them, shall determine the value of all and every such lands and property, and in such determination or determinations said commissioners shall designate the sum to be paid by said company to the owners of such lands and property respectively, in accordance with the provisions in this act contained: and when so done, the same shall be by said commissioners, or a majority of them, reported in writing, under their hands, to the circuit court of the county where such lands and property are situate. Such reports shall, from time to time, be made and deposited with the clerk of the circuit court of the proper county, who shall file and carefully preserve the same in his office. Such reports shall be so

Oath of commissioners.

To view land and make report.

as aforesaid deposited within thirty days after the appraisements and determinations shall be completed in any county.

In case no appeal is taken within thirty days.

In case no appeal shall be taken or made within thirty days after the depositing of any such report as aforesaid, then the clerk of such circuit court shall record the same at the expense of said company; and said court shall enter judgment or judgments therein according to such report, on motion of said company, or on motion of any such property owner as aforesaid therein named, at any term of said court. Said commissioners shall have power, under the provisions of this section, to do the things required of them in every case when the said company cannot agree with the owner or owners of such land and property as is in this section before referred to, as to [the] value thereof, or when by reason of the legal incapacity, non-residence of, or absence from such circuit, of any such owner or owners, no such agreement can without delay be made. Said company, or such owner or owners as aforesaid, may appeal from the decision of said commissioners, in each and every case, to the circuit court wherein is deposited any such report, within thirty days after the filing or depositing thereof; and the matters of fact determined by said commissioners shall be determined upon such appeal by a jury, and the jury for such purpose empanneled shall be sworn to, and shall render a true verdict according to the evidence of the value of the land and property in controversy between said company and the owner or owners thereof, as provided in this act Upon the verdict thus rendered the like proceeding shall be had as to setting the same aside, granting a new trial, or rendering judgment thereon, as is the practice by law in civil cases between party and party. In case the verdict of the jury shall be for a less sum than that determined upon or fixed by said commissioners, the court shall render judgment for costs against the owner or owners. If such verdict be for a sum greater than that determined upon or fixed by said commissioners, in all cases where the appeal has been taken by the claimant, the court shall render judgment against said company for the sum found by the verdict and for the costs. And upon such judgments executions may be awarded and issue, as in ordinary actions of assumpsit.

In case of appeal.

Verdict.

Commissioners must give

The aforesaid commissioners shall, in no case, proceed to determine or fix the value of the lands and property

foresaid, in the advance of the said company, or of the aid owner or owners of such lands and property, unless here has been previously thereto at least five days notice given to such owner or owners, his or their agent or attorney, and to the attorney or agent of said company, of the ime and place at which such proceedings were to be had, or unless such owner or owners is or are absent from such circuit, and having no agent or attorney known to said company, or any of said commissioners, residing in his state; or unless said owner or owners shall be minors or *non compos mentis*. Such notice, as aforesaid, may be made upon the guardian or trustee of any minor, and from the guardian, trustee or committee of any person *non compos mentis*, if within this state, and such service shall be valid and effectual, and shall be binding upon the owner or owners in like manner as though such minor or *non compos mentis* person were of full age and of sound mind. In all cases where notice cannot be given or served as aforesaid, said commissioners, at the expense of said company, shall cause to be published for three successive weeks prior to the time of any such hearing, in a newspaper printed in the county where the lands and property are situate, if any such paper is therein printed, and if not then in a newspaper printed at the city of Oshkosh, in this state, a notice to all persons who own land in such county, (naming the same) that at a time and place therein designated, said commissioners will proceed to hear the parties in interest, and determine the value of the lands and property in said county, which, by making payment therefor, according to the provisions of this act, said company are authorized and empowered to appropriate, take, occupy, possess or use. Upon the making and filing or depositing of any such report as aforesaid and payment into court, subject to be taken by the owner or owners aforesaid, or upon the legal tender of the amount to be paid as by said commissioners determined, or fixed as aforesaid to the owner or owners aforesaid, his or their agent, attorney, guardian, trustee, committee, or legal representative, the said company, its agents, workmen, or the contractor or contractors, for the making or repairing said railroad, may immediately take and use the said lands and property without awaiting the determination of any matter to be disposed of upon any appeal made or taken as hereinbefore provided. Every person or body corporate who shall claim an interest in

Notice before determining value of lands.

Notice—how given.

When company may take land.

any such lands or property as is before in this section mentioned or referred to, whether by virtue of any tax sales, tax title, incumbrances or lean, legal, equitable or otherwise, is hereby declared to be an owner, or part owner of such lands and property within the meaning of the foregoing provisions of this section. In all cases when the circuit courts of this state shall have rendered judgment against said company, as in this section provided, said company may pay to the clerk of such court, the amount of each such judgment, and such clerk shall, in writing, receipt to said company therefor, and such payment is hereby declared to be a payment unto such court; and the same shall be as good and effectual a payment as though the money were paid personally to the person or party entitled thereto.

Judgment, &c.

Capital stock.

SEC. 20. The capital stock of the company hereby created shall in the first instance be one and a half millions of dollars; which capital stock may be increased to a sum not exceeding six millions of dollars.

Shares.

SEC. 21. The capital stock of the company hereby created, shall be, and hereby is divided into shares of one hundred dollars each.

May connect with other railroads.

SEC. 22. The said company hereby created shall have full power and authority to connect their railroad with any other railroads or branch railroads in the state of Michigan, or to operate the same in connection with such other railroads or branch railroads, or to consolidate the capital stock of the company hereby created, with the capital stock of any railroad company created under or by authority of the laws of the state of Michigan, upon such terms, and under such regulations, as may be jointly agreed upon by the directors of said railroad companies.

Lands exempt from tax and assessments.

SEC. 23. The lands granted or intended to be granted by the provisions of this act to the company hereby created, shall be, and hereby are exempt from all assessments and from all taxation, whatsoever, for the term of ten years from the taking effect of this act, unless said company shall sooner sell or convey the same. And so much of said lands as shall be sold or conveyed by said company within said ten years, shall be subject to assessment and taxation from time to time, as the same shall be as aforesaid sold or conveyed. And in consideration of the annual payment of a per centum (as provided in this section) by said company to this state, upon the gross earnings of

said road to be built by said company as aforesaid, the railroad, its appurtenances and appendages, and all the other property, estate and effects of said company, which by the provisions in this act contained, said company is authorized to acquire, purchase, hold, possess, enjoy or use, for, in or about the construction, equipment, renewal, repair, maintaining or operating its railroad, as also the stock and capital of said company, shall be and hereby are forever exempt from all taxation and from all assessments. And in consideration of the grants made to, and the privileges and franchises conferred upon the company hereby created, and of the exemption contained in this section, the said company shall, on or before the first day of March in each year, pay into the treasury of this state, three per centum on the gross earnings of the railroad so constructed for the year ending on the last day of the preceding December, the first payment of such per centage to commence or be made on the first day of March next, after fifty miles of the railroad of said company shall be completed, and the payment of such per centum annually as aforesaid, shall be and is in full of all taxation and assessments whatsoever, as to the property in this section above exempt. And for the purpose of ascertaining the gross earnings aforesaid, an accurate account of such earnings shall be kept by said company, an abstract whereof shall be furnished by said company to the treasurer of this state on or before the first day of February in each year, the truth of which abstract shall be verified by the affidavits of the treasurer and secretary of said company. And for the purpose of ascertaining the truth of such affidavits and the correctness of such abstracts, full power is hereby vested in the governor of this state, or any other person appointed, as by law prescribed, to examine the books and papers of said company, and to examine under oath the officers, agents and employees of said company, and other persons. And if any person so examined by the governor, or other authorized person, shall knowingly and wilfully swear falsely concerning the matter aforesaid, every such person is hereby declared to have committed perjury. And for securing to this state the payment of the aforesaid per centum, it is hereby declared that the state shall have a lien upon the railroad of said company, and upon all the other property, estate and effects of said company, whether real, personal or mixed. And the lien hereby secured to the state shall take and

Payment to state of 3 per cent in lieu of taxes, &c.

Abstract of earnings to be furnished state treasurer, &c.

have precedence of all demands, decrees and judgments against said company.

First board of directors and their powers.

SEC. 24. The first board of directors of the company hereby created is hereby authorized and empowered, and shall open books to, and shall receive subscriptions to the capital stock of said company to the extent of one and a half millions of dollars and no more, commencing on the sixth day of November, in this present year. And the same shall be done at the city of Oshkosh, in some convenient and public room, which shall be accessible to all persons, from day to day, between the hours of 9 o'clock in the forenoon and 4 o'clock in the afternoon of each day, that may, as aforesaid, be occupied in making subscriptions. Such subscription books shall be kept open between the hours aforesaid, for four days, unless the said one and a half millions of dollars capital stock shall all be sooner subscribed, and at the end of said four days the said subscription books shall be closed, or, should the said one and a half millions of dollars of stock be sooner subscribed, and five per cent thereon in money actually paid in, then in that case the books shall be closed when these things have transpired. After said books are closed, they shall remain closed for thirty days.

Payment of 5 per cent at time of subscribing.

SEC. 25. All persons who shall become subscribers to the capital stock of said company, shall, at the time of subscription, pay in money five per cent., or five dollars upon each share subscribed; and all and every the five per centum aforesaid, when paid in, shall remain in the treasury of said company until paid out for the use or benefit of said company, in the due administration of its affairs, in the location, construction, equipment or operating its railroad in this act authorized to be constructed. And no person shall be permitted to subscribe more than two hundred and fifty shares within the first three and a half of the four days in the next preceding section mentioned. And in case there should be present within the said three and a half days, persons desirous of subscribing to the capital stock of said company within the aforesaid limits of two hundred and fifty shares to each person, and to sums amounting in the aggregate to more than the said one and a half millions of dollars, then and in that case, the said board of directors shall apportion said stock to the amount of one and a half million dollars, among said subscribers, *pro rata*, and according to the amounts subscribed by them respectively. All the stock subscriptions,

Capital stock, when and by whom to be subscribed.

within the three first days after the opening of the books, as is in the next preceding section, shall be subscribed by such persons as were residents of this state, on the first day of June last, and after which three days, any person may subscribe to said stock whether resident of this state or not. Subscriptions to said one and a half millions of dollars of stock may be made in person or by proxy, but no person shall have power, as proxy, to subscribe for more than two persons; and the authority of every person to subscribe as the proxy of another, shall be contained in an instrument in writing, signed by the principal; and such instruments shall be preserved by the secretary of said company, as a part of its papers.

Directors, how many may act, &c.

SEC. 26. In all matters pertaining to the subscription of the aforesaid one and a half millions of stock, no less number than twelve directors shall have power to do any act except adjourn, and a majority of those present must agree to make valid any act done by them as such directors. And as to taking the said first one and a half millions of dollars of stock, the said first board of directors may make by-laws, provided that at least eight of the directors aforesaid, over their signatures, approve of the same; and that they be not inconsistent with, or repugnant to the provisions of this act. Such special by-laws shall be preserved by the secretary, and the same shall ever remain a part of the records of said company.

To prevent fraudulent issue of stock, &c.

SEC. 27. With a view of, and for the preventing the fraudulent issue of stock, or stock certificates, it is hereby declared that no certificates of stock shall ever be made out or issued to any person who has not subscribed to the capital stock of said company, as is in this act provided, previously to any such issue, and then for the amount actually subscribed by such person: nor shall any certificate of stock be delivered to any person, until at least eight of the directors of said company shall have found that the same is for the true amount subscribed by the person named in the certificate, or his assignor, and that the same is numbered, and is of the same date and for the same amount or number of shares as appears in a book of registered stock; and which book shall be kept by said company, and such registry, said eight directors, at least shall, over their signatures, in said book, certify to be correct. All certificates of stock, made, issued or delivered, without the provisions of this section being complied with, shall be, and are hereby declared void. The direct-

ors of said first board of directors shall each have the same right to subscribe to the capital stock of the said company hereby created, as though he was not such director.

Appeals and change of venue.

SEC. 28. In all cases of appeal from the determination of the appraising commissioners, as provided in this act, a change of venue shall be allowed and rendered by the court to which such appeals shall be made, or by the judge thereof, in case any credible person shall make and file with the clerk of such court, an affidavit, in which the affiant states that he knows, or verily believes, that the appellant or appellee cannot, before the judge of such court, or before a jury of the county where such appeal shall be pending, obtain a fair trial. Such change of venue shall be to some county in this state where the cause stated in the affidavit for such change does not exist, and which will best accommodate the parties litigant and their witnesses. On the trial or hearing of cases appealed from the determination of the appraising commissioners, as in this act provided, exceptions may be taken to the decision of the court or judge, and like proceedings had to and upon final judgment rendered in such cases as in ordinary civil cases wherein an issue of fact is joined. In case the company hereby created shall locate the line of its railroad in this act authorized to be constructed, so near the whole or a considerable part of the line of railroad of any other railroad company now organized, and which line or part of line is now, by such other company, surveyed and definitely located, but in no part constructed, as to destroy or materially affect or injure the business of such other company, over or upon such line or part of line thus encroached upon by the company hereby created, the said company shall pay to such other company the sum that is really worth to make such survey and location, of the whole or part of line of road as is above in this section mentioned, and also the sum that it is really worth to make such proper maps, profiles, drawings, diagrams and estimates, as such other company now hath, as to or concerning such whole or part of line as is above in this section mentioned; and in case the company hereby created and such other company shall not be able to agree as to the sum of money which ought to be paid according to the provisions of this section, then and in every such case, the said companies shall each choose an experienced engineer, and the two thus selected, if they

In case of locating road near any other road to pay certain damages.

can, shall choose a third person, and if they cannot, then such third person shall be selected or appointed by the governor; all of whom shall be in no way interested in either company. And they, or a majority of them, after an examination of the matters confided to them, under and by virtue of this section, and a full hearing of the said companies and their testimony, (they having previously given at least thirty days notice of the time and place of hearing to each of said companies,) shall determine the sum to be paid in accordance with the provisions of this section. Such determination shall be reduced to writing in the form of an award, signed in triplicate, by said engineers, or a major part of them; and one of such copies shall be filed with the Secretary of State, and the other two shall be delivered to said companies, one to each, by some of said engineers. And such determination, by said engineers as aforesaid, shall be final and conclusive upon the said companies, unless the company dissatisfied therewith shall appeal therefrom to the circuit court of some county in which some portion of such whole or part of line of road as aforesaid, is or may be, within thirty days after the delivering to such dissatisfied company of a copy of such determination as aforesaid; and such appeals may be taken, and if taken, the like proceedings shall be had, so far as is possible and consistent with the provisions of this section, and as is in this act provided, for and upon appeals in other cases.

Persons to determine and make award.

SEC. 29. All property which the company hereby created, is authorized to appropriate, take, possess, hold or use, by making payment therefor, as is in this act provided, is hereby declared to be taken for public use, so soon as the company shall so appropriate, take, possess, hold or use the same.

Property deemed taken for public use.

SEC. 30. The company hereby created shall fence its railroads in parcels, as it shall from time to time operate the same, within one year from the time it shall commence the operating any and every such parcel, until the whole of said railroads are in a good, proper, substantial and workmanlike manner, fenced throughout the entire extent of the lines thereof.

To fence roads.

SEC. 31. Notwithstanding the use of language in a general or unrestricted sense in this act, it is hereby expressly declared, that the proceeds or avails of the lands granted by the aforesaid act of congress, to this state, and by this state, in and by this act, granted to the company hereby

Proceeds of lands, how disposed of.

created, shall be exclusively appropriated to the construction of the railroad in this act authorized to be constructed.

Shall transport U. S. troops, mails, &c. free.

SEC. 32. The railroad constructed by the application of funds derived from the lands in this act granted, shall be and remain public highways for the use of the government of the United States, free from any toll or other charge upon the transportation of property or troops of the United States, and the United States mail shall be transported over the said road or roads, under the direction of the post office department as provided in said act of congress.

Objects cannot be attained under general laws.

SEC. 33. It is hereby declared that in the judgment of the legislature of this state, the objects of the corporation hereby created cannot be attained under general laws.

Public act.

SEC. 34. This act is hereby declared to be a public act, and the same immediately after the passage thereof shall be printed by the state printer, and thus published shall take effect and be in full force.

Approved Oct. 11th, 1856.

CHAPTER 138.

Published November 15.

An Act to appropriate the sum of money therein named to the Superintendent of Public Instruction.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Appropriation to superintendent public instruction for clerk hire.

SECTION 1. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of six hundred dollars annually to the superintendent of public instruction for the purpose of defraying the expenses of clerk hire in the office of said superintendent of public instruction; said sum to be drawn quarterly by said superintendent, and to be disbursed by him for the purpose herein named; *Provided*, That said sum of six hundred dollars shall be in full for the annual payment of all clerk hire of said department.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved October 13, 1856.

CHAPTER 139.

Published November 3.

An Act supplementary to an act entitled an act to execute the trust created by an act of congress entitled "an act granting public lands to the State of Wisconsin to aid in the construction of railroads in said state," approved June 3d, 1856, by incorporating the Wisconsin and Superior railroad company, and granting a portion of said lands thereto.

The People of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

SECTION 1. The said Wisconsin and Superior railroad company are hereby required to commence the construction of their railroad at the city of Fond du Lac, on or before the first day of January next, and complete the same to the city of Oshkosh on or before the first day of August, A. D. 1858. Supplementary to certain act.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved October 13, 1856.

CHAPTER 140.

Published November 6.

An Act amendatory of and supplementary to an act entitled an act to execute the trust created by an act of Congress, entitled an act granting public lands to the State of Wisconsin, to aid in the construction of railroads in said state, approved June 3d, 1856, by incorporating the Wisconsin and Superior railroad company, and granting a portion of said lands thereto, which said bill, thus amended, passed both branches of the legislature, October 9th, 1856.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section fifteen of an act entitled an act to execute the trust created by an act of congress, entitled an act granting public lands to the state of Wisconsin to aid in the construction of railroads in said state, approved Amendment to land grant act.

June 3d, 1856, by incorporating the Wisconsin and Superior railroad company, and granting a portion of said lands thereto, is hereby amended, so that section fifteen of said act shall read as follows:

First directors.

The first board of directors shall be the following named persons, that is to say, Herman Haertel, Albert Lamberson, Cyrus P. Hiller, Charles Kuehn, Anson Ballard, James Duane Doty, George F. Wright, Bertine Pinckney, James H. Weed, B. Frank Moore, Julius White, William Scott, John Bradley, Albert Winslow, Joseph Turner, together with two persons to be appointed by the governor of said state of Wisconsin, and said directors thus appointed, shall have the same powers and shall hold their offices for the same length of time in every respect as though they were especially named herein; and the governor aforesaid shall not have the power or authority of removing the directors so appointed by him.

To chose a president.

At the first meeting of the board of directors aforesaid, they shall first choose the president of said company, and a secretary, after which they shall ballot for their respective terms of office as directors, as follows: The president shall cause to be prepared seventeen pieces of paper, of as nearly the same size as may be, upon five of which shall be written "term of one year," and upon six more shall be written "term of two years," and upon the remaining six shall be written "term of three years," the said pieces of paper shall be then folded as nearly alike as conveniently can be done, after which the same shall be put into a box and well shaken. Each of the said directors shall then draw from the said box one of the said pieces of paper, and the secretary shall make a record of the said drawing, noting the term by each director drawn, and those who shall draw the ballots having thereon the words "term of one year," shall hold their office as directors until the first Wednesday in the month of December, in the year one thousand eight hundred and fifty seven, and until their successors are duly elected. Those who shall draw the ballots having thereon the words "term of two years," shall hold their offices as directors until the first Wednesday in the month of December, in the year next succeeding the year last aforesaid. Those who shall draw the ballots having thereon the words "term of three years," shall hold their offices as directors until the first Wednesday in the month of December, in the year of our

Classification of office of directors.

Lord, one thousand eight hundred and fifty-nine, and until their successors are duly elected.

SEC. 2. This act shall take effect and be in force from and after its passage, and the same shall be published immediately by the state printer.

Approved Oct. 13th, 1856.

CHAPTER 141.

Published November 15.

An Act to authorize Secretary of State to audit certain accounts of Registers' of Deeds and Witnesses.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The secretary of state is hereby authorized to audit the accounts of the registers' of deeds of the several counties in this state, from which abstracts of the state mortgages were received by, and for the use of the investigating committee, at the several sums specified in the report of the secretary of the said committee, and also the accounts of witnesses which were subpœnaed and examined before said committee, according to the time and mileage specified in the said report, at the rate of ten cents per mile and two dollars and fifty cents for each day's attendance as therein specified. **Secretary of state to audit certain accounts.**

SEC. 2. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, a sufficient sum for the payment of said accounts as audited by the secretary of state.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved October 13, 1856.

CHAPTER 142.

Published November 19.

An Act to authorize the Secretary of State to audit certain accounts for postage of the Historical Society, and to authorize the Librarian to deliver to said society certain books.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Secretary of state to audit postage of Historical Society.

SECTION 1. The postage of the state historical society for its correspondence, and in transmitting its published reports to donors and public libraries, and in effecting its literary exchanges, shall be audited by the secretary of state, and paid the same as the postages of the state departments.

Entitled to duplicate copies of works in State Library.

SEC. 2. All duplicates of historical and miscellaneous works now or hereafter in the state library, shall be transferred to the state historical society.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved October 13, 1856.

CHAPTER 143.

Published November 14.

An Act to amend chapter 24 of the Revised Statutes.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

To allow schools to borrow money on credit of towns from University fund.

SECTION 1. Any union school, academy, college, university or other institution of learning, now or hereafter to be organized, or incorporated within the limits of this state, may borrow money on the credit of the town, village or city in which the same is located, from the principal of the school and university funds, in sums of not less than five hundred, nor more than ten thousand dollars, to any one

corporation for the purposes of purchasing sites, constructing buildings, procuring apparatus and libraries, establishing endowments, and for such other purposes as may be necessary to promote the interests and success of any such institution of learning; *Provided*, That the town, village or city, in which such institution may or shall hereafter be located, shall at a general election or an annual town meeting, give its sanction to the making of the loan, and determine the amount to be loaned by any such aforesaid corporation for the purposes enumerated in this section; *And, provided also*, That no sum shall be loaned, on the bond of any town, village or city, that shall exceed twenty-five per cent, of the assessed valuation of property in said town or city. Proviso.

SEC. 2. When any corporation for educational purposes shall determine to ask such a loan it shall be the duty of the presiding officer and secretary, or the trustees of the institution, to deliver to the town, village or city clerk, in writing, such determination, stating the amount required, and it shall be the duty of said clerk to give notice of the application for such loan, stating the amount and terms thereof, with, and as a part of the notice required by law for such general or charter election or town meeting. Corporation to give notice to village or city clerk of intention to borrow.

SEC. 3. At any such election the legal voters of such town, village or city aforesaid, voting, shall deposit in a seperate box to be provided for that purpose, their ballots as follows: Those in favor of the loan, a ballot, on which the words "for the loan" shall be printed or written, and those opposed to such loan, a ballot on which the words "against the loan" shall be printed or written, such elections shall be held and conducted, and the votes canvassed as provided by law in all general elections, and if the majority shall be found in favor of the loan, then it shall be the duty of the supervisors of such town, or the trustees of such village, or the common council of such city, to issue the bond of such town, village or city, to the state of Wisconsin for the amount stated in the accompanying election notice, bearing seven per cent per annum interest. Vote on same.

SEC. 4. It shall be the duty of the secretary of state, when he shall receive the bond of any town, village or city, for the purposes expressed in the first section of this act, and shall be satisfied that the same was authorized and executed as herein provided, to file the same in his office, and direct the state or county treasurer, in whose hands any of the principal of the school and university Secretary of state's duty on receiving bond of any town or city.

funds may be, to pay to the treasurer of the institution, in whose favor the bond may have been issued, the amount secured by said bond, and further it shall be the duty of the secretary of state, in apportioning the taxes among the different counties of the state, to charge the county in which any institution may have borrowed any portion of the school and university fund, with the interest of the bond, at seven per cent, and it shall be the duty of the board of supervisors of such counties to add to the ratio of the state and county taxes, the amount annually due from any town, village or city in any such county in consequence of the issuing of its bonds as aforesaid, and it shall be the duty of the treasurer of any such town or city to return to the county treasurer the amount due the state on any such bond, with and as part of the state taxes to be paid over by him to the state treasurer, as state taxes, are required by law to be paid.

In case there is no money in treasury.

SEC. 5. If at the time of the making an application or the presentation of the bond there shall be no money belonging to the school and university fund in the treasury, it shall be the duty of secretary of state to file the bond of the town, village or city, as the case may be, and direct the treasurer to pay over to the treasurer of any institution in favor of which the bond may have been issued, the first moneys received into the treasury, on account of the principal of the school or university funds, until the amount received by such bonds shall have been fully paid, and to charge interest as heretofore provided upon such sums as shall have been advanced upon such bond as aforesaid, from the date of such advances, and all such bonds shall have precedence in the order of their date.

Repealed.

SEC. 6. All acts and parts of acts contravening the provisions of this act are hereby repealed.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved October 13, 1856.

CHAPTER 144.

Published October 16.

An Act to amend an act to apportion and district anew the members of the Senate and Assembly of the State of Wisconsin.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The town of Primrose, in the county of Dane, is hereby attached to the fourth Assembly district in said county, and with the towns of Perry, Springdale, Blue Mounds, Cross Plains, Vermont, Berry, Black Earth and Roxbury, in the county of Dane, shall constitute an assembly district. Amendment.

SEC. 2. This act shall take effect immediately on its passage.

Approved October 14, 1856.

CHAPTER 145.

Published November 18.

An Act to regulate the boundaries of La Crosse, Jackson and Monroe Counties.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Towns 19, in ranges five and six west, in the county of Jackson, are hereby attached to, and shall hereafter be, and constitute a part of La Crosse county. Attached to La Crosse co.

SEC. 2. Towns 19, in ranges one, two, three and four west, in the county of Jackson, and town 19, in range one east, in said county, are hereby attached to, and shall constitute a part of the county of Monroe. To Monroe co

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved October 14, 1856.

JOINT RESOLUTIONS

OF THE

SENATE AND ASSEMBLY.

OF THE STATE OF WISCONSIN—SESSION OF 1856.

NUMBER 1.

Resolved by the Assembly, the Senate concurring, That he joint committee appointed to examine the books in the office of the state treasurer, secretary of state and school and university land commissioners, be, and they are hereby authorized and directed, to examine into the manner in which the school and university lands have been sold, and all such other matters connected with the selection, appraisal, management and disposition of said lands, and the funds arising therefrom, as said committee shall deem important, and for the interests of the state; and for the purpose of such examination, the said committee have full power and authority to send for persons and papers.

Investigating committee directed to examine the manner of sales of University lands, &c.

Presented to the Governor, February 28, 1856.

NUMBER 2.

Joint Resolution in relation to Islands in the Mississippi river.

Whereas, By the act of Congress of the United States, approved September 28th, 1850, granting to the several States in this Union the swamp and overflowed lands

In relation to islands in Mississippi river.

within the borders of said States, the State of Wisconsin is justly entitled to the islands in the Mississippi river, east of the main channel of the Mississippi and St. Croix, as the said islands are situated wholly within the bounds of the State of Wisconsin, being east of the main channel of the Mississippi and St. Croix rivers.

Why not brought into market.

And whereas, The said islands have never been brought into market, for the reason that it has not as yet been ascertained at the proper department at Washington, whether the said islands are within the limits of this state, or in those of the state of Iowa.

Request to have a survey made.

Therefore, be it Resolved, That the President of the United States be, and he is hereby requested to cause a survey of said islands to be made, under the direction of the proper department of the general government, to the end that their locality be finally determined, and that they be set apart to the State of Wisconsin, as a part of the swamp and overflowed lands within her bounds, under the act of congress aforesaid, so far as the same may be found to lie east of the main channel of the Mississippi river.

Approved March 22, 1856.

NUMBER 3.

Authorising Wm. Crombie to dispose of certain timber, &c.

Resolved by the Assembly, the Senate concurring, That William Crombie be authorized to secure and dispose of the wood, timber and lumber which may have been cut upon or taken from lands owned by this state: *Provided*, No charge shall be made against the state for such service or for his services in protecting the swamp and overflowed land heretofore, unless enough of wood, timber or lumber is saved by the said Crombie, to pay the same; and he is hereby required to report to the secretary of state, under oath, the amount of his receipts upon such sales, on the first day of January, A. D. eighteen hundred and fifty seven, or within fifteen days thereafter; and any amount he shall have received over the amount his due for services rendered the state, in protecting the swamp and overflowed lands, shall be paid into the state treasury, with his report to the secretary of state.

Approved March 29, 1856.

NUMBER 4.

Joint Resolution of the Senate and Assembly of the State of Wisconsin to to the United States, in relation to the removal of the Stockbridge Indians.

Whereas, The difficulties heretofore existing in relation to titles to lands, at the town of Stockbridge, Calumet county, has materially retarded the improvement of that part of our state.

Providing for settlement with Munsee and Stockbridge Indians.

And whereas, It is understood that lately an arrangement has been entered into, by a commissioner on the part of the United States and the Stockbridge and Munsee tribes of Indians, providing for a settlement of the said difficulties, and the removal of the said Indians to a new location, in the neighbourhood of the Menominee Indians.

And whereas, It is very desirable that the said arrangements be speedily carried into effect.

Therefore, Resolved by the Assembly, the Senate concurring, That his Excellency, the President, and the Hon. the Senate of the United States, be respectfully requested speedily to ratify and to carry into effect the said arrangement.

Resolved, That the Governor be requested to forward certified copies of this resolution to the President and the Senate of the United States.

Approved March 31, 1856.

NUMBER 5.

Joint Resolution in relation to the Stockbridge and Munsee Indians.

Resolved by the Senate and Assembly of the State of Wisconsin, That the assent of the state is hereby given to the locating, by the United States, of the Stockbridge and Munsee tribes of Indians, on a tract of land to be selected near the south line of the Menominee reservation.

Location of same in Menomonee reservation.

Approved September 16, 1856.

NUMBER 6.

Joint Resolution rescinding Joint Resolution entitled "Joint Resolution in relation to the Stockbridge and Munsee tribes of Indians."

Rescinded.

Resolved by the Senate and Assembly of the State of Wisconsin, That the joint resolution entitled "joint resolution in relation to the Stockbridge and Munsee tribes of Indians," be, and the same is hereby rescinded.

Approved October 13, 1856.

MEMORIALS

OF THE

SENATE AND ASSEMBLY.

OF THE STATE OF WISCONSIN—SESSION OF 1856.

NUMBER 1.

Memorial to Congress for the establishment of a mail route from La Crosse to Chippewa Falls, via Fountain City.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

This memorial of the Legislature of the State of Wisconsin, respectfully represents:

For mail route from La Crosse to Chippewa Falls.

That the interest and convenience of a large number of the inhabitants of the counties of La Crosse, Trempeleau, Buffalo and Chippewa, require the establishment of a mail route, by land, from La Crosse via Fountain City, in Buffalo county, to Chippewa Falls, in the county of Chippewa. Your memorialists would therefore respectfully ask, that the aforesaid mail route may be established at the earliest practicable period.

Approved February 19, 1856.

NUMBER 2.

Memorial to Congress for the establishment of a Mail Route from Black River Falls to the county seat of Clark County.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

This Memorial of the Legislature of the State of Wisconsin respectfully represents:

For mail route from Black River Falls to Clark C. H.

That the interest and convenience of a large number of the inhabitants of the counties of Jackson and Clark require the establishment of a side mail route, from Black River Falls, in Jackson county, to Clark C. H., in the county of Clark.

Your memorialists would therefore respectfully ask that the aforesaid mail route may be established at the earliest practicable period.

Approved February 19, 1856.

NUMBER 3.

A Memorial to Congress for increase of mail service from Oconomowoc, in Waukesha county, to Aztalan, in Jefferson county, by way of Concord and Farmington.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

For mail route from Oconomowoc to Aztalan.

That the interest of a large and densely populated portion of the country would be greatly enhanced by an increase of mail service, on the route from Oconomowoc, in Waukesha county, to Aztalan, in Jefferson county, by way of Concord and Farmington.

Your memorialists would therefore respectfully ask your honorable body to establish a tri-weekly mail on the route indicated at the earliest practicable period.

Approved February 28, 1856.

NUMBER 4.

A Memorial to Congress for an appropriation to build a Post Office and United States Court House, in the city of Madison.

To the Senate and House of Representatives of the United States, in Congress assembled.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

That the Judge of the United States for this district is required by law to hold annually a term of the district court at Madison, the seat of government of this State. That there are no accommodations now provided for the court and its clerk and juries; and the rooms in the Capitol being required for the use of the State Officers, it is difficult to obtain other rooms suitable and convenient for the court.

For a post office and United States custom house.

The Post Office at Madison has now become one of much importance. Its business is largely increasing, and we are informed it now ranks in its receipts the second office in the State. It is not kept in a convenient or safe building, and we presume none such can be procured in the town.

We do therefore respectfully request that an appropriation may be made for the construction of a building in Madison, to be occupied by the Courts of the United States and by the Post Master, and that the Post Office and offices of the court be kept therein. That said building be constructed of stone, which is the material ordinarily used for building in this town, and that the sum of one hundred thousand dollars be appropriated for that purpose. And the Governor and Secretary of State are hereby authorized and required on the passage of the act making such appropriation, and on the application of the Secretary of the Treasury, to make and execute in the name of this State a relinquishment to the United States of the title to so much of the public square in the city of Madison on which the Capitol now stands, as shall be required for said building.

Duty of governor and secretary of state.

Approved March 6, 1856.

NUMBER 5.

Memorial to the Post Master General for the establishment of Mail Service on the route from Fox Lake via Kingston to Montello.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

For additional mail facilities between Fox Lake and Montello.

That at the last session of congress a mail route was established from Fox Lake, in Dodge county, via Kingston, to Montello, in Marquette county.

That the region of country bordering on said route is thickly settled, and that there are no adequate mail facilities between the points mentioned in said route.

That a tri-weekly stage is now running over said route, to accommodate the travelling public, and a railroad is projected over the same, upon which it is expected the work of construction will soon be commenced, and that the business interest and convenience of a large section of country urgently require the establishment of mail service on said route, at least tri-weekly.

The secretary of state is instructed to forward a copy of this memorial to the post master general.

Approved March 6, 1856.

NUMBER 6.

A memorial to Congress for a mail route from Dodgeville, in Iowa county, to Reedsburg, in Sauk county.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

The memorial of the Legislature of the State of Wisconsin respectfully represents:

For mail route from Dodgeville to Reedsburg.

That the convenience and interest of a large number of the inhabitants of Iowa and Sauk counties, require the establishment of a mail route from Dodgeville, in Iowa county, to Reedsburg, in Sauk county, by way of Wyoming, Spring Prairie and Bear Creek Valley.

Your memorialists would therefore respectfully ask that the above route may be established as a mail route, at the earliest practicable period.

Approved March 6, 1856.

NUMBER 7.

A Memorial to the Post Master General for an increase of mail service on route number 13,756, and for other purposes.

To the Post Master General of the United States of America.

The memorial of the Legislature of the State of Wisconsin respectfully represents:

That the present postal arrangements, by which the mail matter for south-western Wisconsin is sent across the Mississippi river, to be distributed at Dubuque D. P. O., greatly tends to delay, irregularity and uncertainty in the receipt of mail matter from the East and South, and that such difficulty would, in the opinion of your memorialists, be measurably obviated by the establishment of daily mail service on route No. 13,756, between Warren, Illinois, and Mineral Point, Wisconsin, and by directing all mail matter for Post Offices in Iowa, La Fayette, Grant, Richland and Crawford counties, in this state, to be distributed at Chicago D. P. O., and forwarded over the above mentioned route.

To discontinue distribution of certain mail matter at Dubuque and transfer to Chicago.

That in the opinion of your memorialists, the arrangement by which any mail matter for Wisconsin, is sent beyond the Mississippi river for distribution, works great wrong and hardship against the people of the western portion of this state, and could only have been adopted and continued by means of misrepresentation of facts, by interested parties, to the proper department of the federal government.

How obtained

Your memorialists therefore respectfully request the increase of service on the above named route, and the change in the postal arrangement above suggested, or such other change as the department may deem sufficient to obviate the difficulty caused by the present arrangement, be made as soon as practicable.

Increase of mail service.

The governor of this state is hereby requested to transmit copies of this memorial to the Post Master General of the United States, each of our senators and representatives, and the Hon. George Wallace Jones, senator from Iowa.

Approved March 6, 1856.

NUMBER 8.

Memorial to Congress for the establishment of a Mail Route from Mineral Point, in Iowa county, to Orion and Richland Centre, in Richland county.

To the Honorable the Senate and House of Representatives of the United States of America, in Congress assembled.

The Memorial of the Senate and Assembly of the State of Wisconsin respectfully represents:

For mail service from Mineral Point to Orion and Richland Centre.

That the rapid settlement and increase of business in the north-western portions of Iowa county, the north-eastern portion of Grant county, and the whole of Richland county, imperatively demands the establishment of a daily mail route, from Mineral Point via Linden, Constance, Highland and Pulaski, in Iowa county; and Muscoda, in Grant county, to Orion, in Richland county: thence to Richland Centre, county seat of Richland county.

Your memorialists would represent that there is now established, by private enterprise, a regular daily line of coaches, for the carrying of passengers, over the whole of said route, and that such is the delay and uncertainty of the mails to the above intermediate points and to Orion, that the greater part of the correspondence between the inhabitants of said points is being transmitted by private hands, rather than through the mails; that the length of said route, by actual survey, is thirty-one (31) miles.

Therefore, and in view of the comparative large nett profit to the department of the postal service in this state, your memorialists ask and respectfully insist upon the establishment by law, of such mail route.

The governor of this state is hereby requested to transmit a copy of this memorial to each of our senators and representatives in congress.

Approved March 6, 1856.

NUMBER 9.

Memorial to Congress for the establishment of a Mail Route, from Oshkosh, via Weyauwega and Stevens Point, in Portage County, to Clearwater, in the County of Chippewa.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

This Memorial of the Legislature of the State of Wisconsin respectfully represents:

For mail service from Oshkosh to Clearwater.

That the interest and convenience of the citizens of the counties of Portage, Clark and Chippewa, will be promoted by the establishment of a Mail Route from Oshkosh, via Weyauwega and Stevens Point, in Portage county, and via the County Seat of Clark county, to Clearwater, in the county of Chippewa.

Your memorialists represent, that the citizens who reside in the district of country through which the contemplated mail route will pass, are now destitute of mail facilities, except as they are supplied in a very imperfect manner, and by distances from their settlements, creating daily inconveniences.

Your memorialists believe, that the proposed route will afford facilities for Post Office communication to a large number of citizens, who, by their industry and enterprise, are now settling and improving a valuable district of country.

Approved March 6, 1856.

NUMBER 10.

Memorial to Congress for the establishment of a Mail Route, from Montfort, via Castle Rock, or Knowlton and Sylvester's Mill, Boscobel and Manhattan, in Grant county, and Marietta and Towerville, in Crawford county, to Viroqua, in Bad Ax county, in the State of Wisconsin.

To the Honorable the Senate and House of Representatives of the United States of America, in Congress assembled.

The Memorial of the Senate and Assembly of the State of Wisconsin respectfully represents:

Mail service from Montfort to Viroqua.

That the rapid settlement and increase of business on the route herein defined and indicated, to-wit: from Montfort, via Castle Rock or Knowlton and Sylvester's Mill, Boscobel and Manhattan, in Grant county, and Marietta and Towerville, in Crawford county, to Viroqua, in Bad Axe county, in the state of Wisconsin, imperiously require the establishment of a semi-weekly mail route, beginning, passing through and terminating as above dedefined.

Your memorialists present two considerations in favor of the route. The wants of the people require it, and the postal receipts on the route will defray the expenses of transportation, without devolving any loss upon the department.

Believing that Congress is at all times disposed to extend mail facilities to the citizens of the United States, where the use can be afforded without ruinous cost to the Post Office Department.

Therefore, Your memorialists pray that a law may be passed establishing the route indicated.

Upon the passage of this memorial, the Secretary of State shall transmit a copy thereof to each of our senators and representatives in Congress.

Approved March 7, 1856.

NUMBER 11.

Memorial to the Post Master General for an increase of mail service from Iron Ridge to Mayville.

To the Honorable the Post Master General of the United States:

That the interests and convenience of the citizens of Mayville, in the county of Dodge and State of Wisconsin, and the surrounding country, are deeply interested in the establishment of a daily mail from the Iron Ridge Station, on the Milwaukee and La Crosse railroad, to the village of Mayville, in said county of Dodge, a distance of six and one half miles, in place of the present weekly mail.

For mail service from Iron Ridge to Mayville.

Your memorialists therefore respectfully ask, that the aforesaid increase of mail service may be granted at the earliest practicable period.

The Governor of this State is requested to forward a copy of this memorial to the Hon. Charles Billinghurst, Representative in Congress from the third congressional district of the State of Wisconsin, (at Washington) as soon as practicable.

Approved March 18, 1856.

NUMBER 12.

A Momorial to Congress for an appropriation for a Marine Hospital at Milwaukee.

To the Honorable the Senate and House of Representatives of the United States of America, in Congress assembled.

The Memorial of the Senate and Assembly of the State of Wisconsin respectfully represents:

That the number of arrivals of vessels at the port of Milwaukee, during the navigable season of 1855, was two thousand eight hundred and two, the total tonnage of which was nine hundred and eighty thousand seven hundred tons, that the total amount of duties collected at that

For appropriation for Marine Hospital at Milwaukee.

port during the year 1855, was one hundred and seventy three thousand, one hundred and thirty dollars; that the number of steam and sail vessels owned in, and sailing to and from the district of Milwaukee, during the same season, was one hundred and one, and that this number will be very greatly increased every succeeding year; that the aggregate value of the imports and exports of the port of Milwaukee, for the year 1855, as found by careful examination, was upwards of forty millions of dollars; that the commerce and navigation of the lakes employ every year, a very great number of sailors and seamen, many of whom are annually disabled from old age, sickness and infirmity, without the means of support, and dependant upon charity for their daily sustenance; that a humane regard for the health and lives of these unfortunate men, as well as a proper encouragement for others to engage in the hardy, but indispensible service of our lake navigation, requires the early construction of a Marine Hospital at Milwaukee, that being a central port in the district on the western coast of Lake Michigan.

Your memorialists therefore respectfully ask, that an adequate appropriation be made by Congress, at its present session, for the erection of a suitable Marine Hospital at Milwaukee.

Approved March 18, 1856.

NUMBER 13.

Memorial to Post Master General for increased Mail Facilities from Portage City to Stevens' Point, via Grand Rapids.

To the Honorable the Post Master General of the United States.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

For mail service from Portage city to Stevens Point.

That the interests and convenience of the citizens of Columbia, Adams county, in this State, would be much advanced by your favorable consideration of this memorial, viz.: the increase of facilities on the route from Portage city, in Columbia county, to Stevens Point, in Portage county, via of Grand Rapids, from one to three times a week.

Approved March 18, 1856.

NUMBER 14.

Memorial for a Mail Route from North Pepin to Chippewa Falls.

The people of the State of Wisconsin, represented in Senate and Assembly, respectfully represent:

That it would materially benefit the rapidly increasing population of the counties of Dunn and Chippewa, by establishing a weekly mail route from the village of North Pepin, in the county of Dunn, to Chippewa Falls, in the county of Chippewa, by the way of Clearwater Post Office.

For mail service from North Pepin to Chippewa Falls.

Your memorialists further state, that the people residing in that portion of the state through which the proposed route would pass, are imperfectly and poorly supplied with mail facilities, and that they would be greatly benefited by the establishment of the above named route.

Approved March 22, 1856.

NUMBER 15.

A Memorial to Congress for the establishment of a Mail Route from Reedsburg, in Sauk County, to Leon, in Monroe County.

The Memorial of the Legislature of the State of Wisconsin, respectfully represents:

That the interests and convenience of a large section of the state urgently demand the establishment of a weekly mail route, from Reedsburg, via Hamilton, Monawoc, Millard's Prairie, Glen Dale, Johnson's Mill, to Leon. The said route is the shortest and most direct course from Reedsburg to La Crosse, and once established, would become a great thoroughfare in the State.

For mail service from Reedsburg to Leon.

Your memorialists would therefore respectfully ask that said route may be immediately established.

Approved March 21, 1856.

NUMBER 16.

A Memorial to Congress for the establishment of Mail Routes therein named

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

The Memorial of the Legislature of the State of Wisconsin, respectfully showeth:

For mail route from Black River Falls to O'Gally's mills, &c.

That the interest and convenience of a large and rapidly settling portion of this State, would be greatly subserved by the establishment of a mail route from Black River Falls, in Jackson county, via Beef River Station, to O'Galley Mills, in Dunn county; also, by the establishment of a mail route from 12 mile Bluff, on the Mississippi river, in Buffalo county, to Chippewa Falls, in Chippewa county.

Your memorialists therefore respectfully ask, that the above named mail routes be immediately established, with such mail service thereon as may be deemed necessary.

Approved March 22, 1856.

NUMBER 17.

Memorial to the Post Master General, for the establishment of a Mail Route therein named.

To the Congress of the United States.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

For Mail route from Baraboo to Weston's mill, Clark co.

That the interest and convenience of a large portion of country are concerned in the establishment of a mail route, from Baraboo, in the county of Sauk, via Germantown, in the county of Juneau, and Grand Rapids, in the county of Portage, to Weston's Mill, on Black River, in the county of Clark.

Your memorialists therefore respectfully ask that the mail route, above referred to, may be immediately advertised for letting, and mail service established thereon.

Approved March 22, 1856.

NUMBER 18.

A Memorial for Daily Mail Service from the Village of Waupun to the City of Oshkosh.

To the Honorable the Post Master General of the United States:

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

For mail service from Waupun to Oshkosh.

That the interest and convenience of the citizens of a densely populated and large portion of country are concerned in the establishment of a daily mail, on route No. 13,718, which lies between the village of Waupun and the city of Oshkosh; that a railroad has been constructed and is now in operation, from the city of Milwaukee to Waupun; that the cars arrive at Waupun in time for the mail to be taken through the same day to the city of Oshkosh, which contains over four thousand inhabitants, and through which the inhabitants of a large section of country receive their mail matter.

Your memorialists therefore respectfully ask, that a daily mail, on the route above referred to, may be immediately established.

Approved March 22, 1856.

NUMBER 19.

Memorial to Congress to establish a daily Mail Route from Edgerton, in Rock county, to Cambridge, in Dane county.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

For mail service from Edgerton to Cambridge.

That the citizens of a densely populated portion of country are at present in great want of mail service, from Edgerton, in Rock county, to Cambridge, in Dane county, by Albion, Utica and Christiana, in Dane county. Two mail routes having recently been discontinued, without any provision having been made for mail service adequate to the necessities of the inhabitants, and as the proceeds of the offices would sustain a daily mail over said route.

Therefore, your memorialists respectfully ask your honorable body, to establish a daily mail on said route at the earliest practicable period.

Approved March 22, 1856.

NUMBER 20.

A Memorial to the Post Master General, for an increase of Mail Service on the Routes therein named.

To the Honorable the Post Master General of the United States.

The Memorial of the Legislature of the State of Wisconsin respectfully represents.

For mail service from Portage to La Crosse, &c.

That the interest and convenience of the citizens of a thickly populated portion of country are concerned in the establishment of a daily mail from Portage, in the county of Columbia, to La Crosse, in La Crosse county, by way of Sparta, in the county of Monroe, and of a tri-weekly mail from said Portage, in Columbia county, by way of Sparta, in said Monroe county, to the village of Trempeleau, (late Monteville,) in Tempeleau county, Wisconsin.

Your memorialists therefore respectfully ask, that the said mail service be established at the earliest period.

Approved March 22, 1856.

NUMBER 21.

A Memorial to Congress for the establishment of a Mail Route.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

That the interest and convenience of a large number of citizens, require the establishment of a mail route from Reed's Landing, at the foot of Lake Pepin, in the territory of Minnesota, via the village of North Pepin, in Dunn county, Wisconsin, River Falls Post Office, Pierce county, to Hudson Post Office, in St. Croix county, Wisconsin, and that the service on said route be tri-weekly.

For mail service from Reed's Landing to Hudson.

Approved March 31, 1856.

NUMBER 22.

A Memorial to the Post Master General for an increase of Mail Service on a certain Mail Route.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

That the present mail facilities on the route from Madison, via Baraboo, Sparta, Black River Falls and Menominee, to Hudson, in St. Croix county, are entirely inadequate to the wants and necessities of a densely populated portion of the country, and that it is of the utmost importance the citizens of the towns of Hudson, Prescott, to Stillwater and St. Paul, and the entire population of northwestern Wisconsin and part of the territory of Minnesota, that such mail service should be increased to a daily mail, and that it is believed that if the same were established, it would cause no additional expense to the department.

For mail service from Madison to Hudson.

Approved March 31, 1856.

NUMBER 23.

Memorial to Congress for a Mail Route from Necedah, in Juneau county, via Clark County Court House, to Clearwater, in the county of Chippewa.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled.

This Memorial of the Legislature of the State of Wisconsin respectfully represent:

For mail service from Necedah to Clearwater.

That the interest and convenience of a large number of the inhabitants of the counties of Juneau, Portage, Jackson, Clark and Chippewa, demand the establishment of a mail route from Necedah, in the county of Juneau, to Clearwater, in the county of Chippewa, via Clark county Court House.

Your memorialists would therefore respectfully ask, that the aforesaid mail route may be established at the earliest practicable period.

Approved March 31, 1856.

NUMBER 24.

A Memorial to Congress for an Act to extend the Right of Pre-emption over unsurveyed lands, in the State of Wisconsin.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

To extend the right of pre-emption.

That the passage of a law similar to chapter 249, of the laws of congress, entitled "an act to extend the right of pre-emption over unsurveyed lands, in Minnesota, and for other purposes," approved August 4th, 1854, and extending the provisions of said law to the State of Wisconsin, would greatly facilitate the settlement of the public lands in this State.

Your memorialists would therefore urge the necessity of the passage of such an act.

Approved September 16, 1856.

NUMBER 25.

Memorial to Congress in behalf of the claims of Col John Shaw, of Marquette county, Wisconsin.

To the Honorable the Senate and House of Representatives, in Congress assembled.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

For relief of Col. John Shaw.

That your memorialists have learned that their venerable fellow-citizen, Col. John Shaw, has made application to Congress, for pay for three years services, during the entire war of 1812–'15, on the frontiers of Missouri and Illinois, as a spy or scout, say from the outbreak of the Indians in that region, in the spring of 1812, till the news of peace reached the north-western frontiers, in the spring of 1815; and also a claim of $13,684 93, for losses sustained to that amount during said war, in consequence of furnishing the Missouri and Illinois Rangers with various kinds of supplies, necessary for Mounted Rangers; that said Rangers not getting their pay till after they were disbanded, and scattered to their several homes, and elsewhere, Col. Shaw failed to receive his just dues from them, to the amount above mentioned; that said losses, sustained by his patriotic efforts to serve his country in her day of need, plunged him into embarrassments from which it required several years to extricate himself.

Your memorialists further represent, that Col. Shaw bears, among his fellow citizens, a high and unblemished character for worth, integrity and enterprise, and none who know him doubt his statements as to his services, or the losses he represents himself to have sustained; and now, in his declining years, having nearly attained the age of seventy-four, and so nearly blind as to be incapacitated for any manual labor, he really needs all that is justly due from his country. A statement of his services may be found in the *Second Annual Report and Collections of the State Historical Society of Wisconsin*, which statement, your memorialists are satisfactorily informed, has been thoroughly tested by the officers of that society, and found to be worthy of the fullest confidence and belief.

Your memorialists, therefore, respectfully ask your Honorable body to give to the claim of Col. John Shaw, that careful attention and examination which they are well persuaded they justly deserve.

Approved October 4, 1856.

NUMBER 26.

A Memorial to Congress for a Mail Route.

To the Honorable the Senate and House of Representatives, of the United States.

The Memorial of the Legislature of the State of Wisconsin respectfully represents:

To extend mail route in Kewaunee co.

That the interest and convenience of a large and rapidly settling portion of the counties of Door and Kewaunee, urgently require the establishment of a weekly mail route, from Kewaunee, in said county of Kewaunee, to the mouth of the Ahnepe River, also in said county of Kewaunee, a distance of about twelve miles. There now being a weekly mail from Two Rivers, in the county of Manitowoc to Kewaunee, the establishment of this as a continuation of said route, would furnish mail service to a portion of the county now entirely destitute of this advantage, except at great inconvenience.

Your memorialists would therefore respectfully ask that said route may be established as speedily as possible.

Approved Oct. 9, 1856.

NUMBER 27.

Memorial to Congress for the passage of a Law confirming the selections of certain Lands by the State of Wisconsin.

The Memorial of the Senate and Assembly, of the State of Wisconsin, respectfully represents:

For protection of settlers on lands reserved for improvement of Fox and Wisconsin rivers.

That the even numbered sections of land on the Fox River, in the State of Wisconsin, and within three miles of said river, were reserved from sale in the year 1848, (2-1849,) for the purpose of being donated to the State of Wisconsin, for the improvement of the Fox and Wisconsin rivers, and that with such expectations, settlers went on to said lands, and made large and valuable improvements, with the intention of making said lands a permanent residence for themselves and families; that many of such settlers have made improvements on said lands worth from one to two thousand dollars each, of which they are in possession at this time, and that such improvements or lands are not subject to taxation for any purpose whatever. That such settlers are very desirous of obtaining titles to said lands, upon which they have improvements as aforesaid, to secure their improvments for themselves and families.

Your memorialists would now further represent, that at the time such settlements were made, it was generally believed that the selection of said even sections would be confirmed to this state, and the settlers, therefore, entered upon them in undoubted good faith, as pre emptors under the laws of this state.

That the said settlers are subjected to great inconvenience, and in many cases to serious loss, in consequence of the want of title to their homes, and that they look to congress as the only power to grant them relief.

Your memorialists would further state, that the even sections have always been treated by the general government as a part of the grant made for the improvement of the Fox and Wisconsin rivers, and that although the selection of such even sections has never been confirmed, the State has never yet been permitted to select other lands in lieu of them.

Your memorialists would therefore pray your honorable bodies to pass a law confirming the said sections of said even numbered sections, made by the state under the said grant, upon condition that said lands shall be secured to the settlers thereon, at a price not exceeding ten shillings per acre.

And your memorialists further represent, that by the acts of congress, appoved August 8, 1846, and August 3, 1854, as construed by the joint resolution of congress, of March 3, 1855, there was given to Wisconsin, in aid of the Wisconsin and Fox rivers, a quantity of land equal mile for mile of said improvement to five sections. The State considering that the improvement, commenced at Green Bay, on Lake Michigan, and extending through the Fox and Wisconsin rivers, to the Mississippi river, authorized its agent to select lands for the entire length of such improvement, and such selections have been nearly completed. The state and its assigns, the Fox and Wisconsin Improvement Company, claim that the title to the lands thus selected has already vested, and large sums of money have been expended upon the improvement, relying upon the confirmation and approval of the selections. But the commissioner of the general land office, regarding the Wisconsion river as no part of the contemplated improvement, has confined his approval of the selections under said acts and resolutions, to the Fox river, which is only about two thirds of the length of the actual line of the improvement. This work, confined to the Fox river and Portage canal alone, would be comparatively local and limited in its importance and benefits. The improvement of the Wisconsin river has always been included in the plans and aims of the State, in reference to this work, and considerable sums of money have already been expended, and still larger expenditures are contemplated, to make that river navigable for Mississippi steamboats. The improvement of the Wisconsin river is essential to effect the purpose of congress in making the grant, and is also of great importance to all the States bordering upon the Mississippi river, as it will enable boats navigating that river and its tributaries, to unload their cargoes into the vessels of the great lakes. This connection between the Mississippi and the lakes, completes an unbroken steamboat communication between the valleys of the West and the Atlantic coast. It is believed that no measure of equal importance to the mutual interests of

the Western and Atlantic States has ever received the aid of the general government. Plans have been adopted for the improvement of both the Fox and Wisconsin rivers, requiring the expenditure of more than a million and a half of dollars in their complete execution. A large portion of this money has already been expended, and the State looks with entire confidence to the early completion of the work on an enlarged scale, commensurate with the commerce which it is designed to accommodate, and in a manner creditable to the enterprise of the company to whom the State has transferred its right of constructing the improvement, and it is but reasonable that the company shall have all the aid to accomplish the object, which a liberal construction of the acts of congress will afford them.

Your memorialists therefore ask, that selections of land for every mile of the Wisconsin river, from the Portage to the mouth of said river, under said resolution of March 3d, 1855, may be allowed and confirmed.

Approved October 10, 1856.

STATE OF WISCONSIN, } ss.
SECRETARY'S OFFICE. }

The Secretary of State of the State of Wisconsin does hereby certify, that the laws, resolutions and memorials published in this book, have been compared with the original enrolled acts, resolutions and memorials deposited in this office, and that they appear to be correctly printed.

In Testimony Whereof, I have hereunto set my hand, and affixed the Great Seal of said State, at the Capitol, in Madison, this 15th day of December, 1856.

[S.]

D. W. JONES,
Secretary of State.

APPROPRIATIONS.

No.	Date.	To whom, and for what appropriated.	Amount.
1	Jan'y. 25..	Samuel G. Bugh, clerk of the senate.....	$ 50 00
1	do ..	David Atwood, clerk of the assembly.....	50 00
2	Feb'y. 1...	B. F. Leland, contesting seat.....	50 00
3	do 4...	James Halpin, balance on stationery.....	925 99
4	do 6...	Com. of State Prison, overwork of prisoners....	9,000 00
5	do 9...	J. S. Sherwood, iron for State Prison.....	3,349 50
6	do 8...	Du Ray Hunt, clerk in secretary's office.....	667 50
7	do 12..	Alfred Hoskins, serving requisition.....	85 75
8	do 12..	do do	43 50
9	do 15..	John Hutchinson, conveying State Prison.....	53 00
10	do 15..	Emory Healy, b'ding and guarding convict....	17 85
11	do 20..	Joseph Baker, sergeant-at-arms senate.....	105 00
11	do 20..	O. J. Soper, 1st ass't do do	87 50
11	do 20..	Jacob Preus, 2d ass't do do	87 50
11	do 20..	J. J. Jones, post master senate.....	87 50
11	do 20..	Hiram Morley, ass't post master senate.....	87 50
11	do 20..	George Stearns, door keeper senate.....	87 50
11	do 20..	D. S. Thayer, ass't d or keeper senate.....	87 50
11	do 20..	Abner Rouse, fireman senate.....	87 50
11	do 20..	Samuel C. Bangs, do	87 50
11	do 20..	Alfred Woodard, do	30 00
11	do 20..	Patrick White, messenger senate.....	87 50
11	do 20..	Arthur T. Howe, do	87 50
11	do 20..	Egbert Mosley, sergeant-at-arms assembly.....	105 00
11	do 20..	T. Sergent, 1st ass't do do	87 50
11	do 20..	M. Ten Eyck, 2d ass't do do	87 50
11	do 20..	C. Great, 1st ass't door keeper do	87 50
11	do 20..	John Dean, 2d ass't do do	87 50
11	do 20..	Emanuel Slade, 3d ass't do do	87 50
11	do 20..	C. Menges, messenger assembly.....	87 50
11	do 20..	L. Merrill, do	87 50
11	do 20..	William Slightam, do	87 50
11	do 20..	E. Tobins, do	87 50
11	do 20..	A. S. Gray, post master assembly.....	87 50
11	do 20..	P. Thomas, 1st ass't post master assembly...	
11	do 20..	S. Levy, 2d ass't do do	

No.	Date.	To whom, and for what appropriated.	Amount.
11	Feb'y. 20..	H. Cramer, fireman assembly	$ 87 50
11	do 20..	M. Adams, do	87 50
11	do 20..	E. Finegar, do	87 50
12	do 20..	James T. Lewis, acting as governor, &c	270 60
13	do 28..	O. C. Buck & Co., furniture	481 75
14	do 28..	A. S. Wood and A. Viall, labor and materials	620 75
15	do 28..	Matthew Martin, jr., services about capitol	107 50
16	do 28..	Mears & Ripley, material used about capitol	183 00
17	do 28..	John Hallehan, services about capitol	107 50
18	do 28..	Memhard & Williams, painting	346 43
19	do 28..	Thomas Dougherty, services about capitol	107 50
20	do 28..	E. L. Conly, gas fixtures	1,478 83
21	do 28..	Bradford & Brothers, account rendered	72 37
22	do 28..	Tibbits & Gordon, account rendered	1,351 13
23	do 28..	John N. Jones, postage	45 06
24	do 28..	Samuel R. Fox	400 92
25	March 1...	L. Lillie, fire proof safe	750 00
26	do 1...	Wellstood, Hanks, Hay & Whiting, engraving	86 85
27	do 6...	Turton & Sercomb, casting and wrought iron	1,274 41
28	do 6...	J. A. Hall & Co., stationery	55 80
29	do 6...	Daniel Noble Johnson, writing	9 00
30	do 6...	James W. Polleys, conveying state prisoner	160 00
31	do 1...	S. S. Conover, account of prisoners	758 12
32	do 1...	Peter M. Smart, serving requisition	113 00
33	do 7...	Corss & Merrill, boxes	6 50
34	do 7...	James Halpin, stationery	295 15
35	do 11..	A. Proudfit, work and material on state prison	2,344 67
36	do 10..	Donaldson & Treadway, carpets, &c	590 53
37	do 10..	Samuel Klauber & Co	98 32
38	do 10..	C. P. Goodrich, serving requisition	57 80
39	do 10..	D. H. Wright, material and carpenter work	392 04
40	do 10..	H. Tiffany, shrubbery	57 00
41	do 10..	G. C. & O. A. Albee, chair cushions	30 00
42	do 12..	E. Mosley, sergeant-at-arms assembly	90 00
42	do 12..	C. Sergent, 1st ass't do do	75 00
42	do 12..	M. Ten Eyck, 2d ass't do do	75 00
42	do 12..	A. S. Gray, postmaster do	75 00
42	do 12..	P. Thomas, ass't do do	75 00
42	do 12..	S. Levy, do do do	75 00
42	do 12..	C. Grote	75 00
42	do 12..	J. Dean	75 00
42	do 12..	E. Slade	75 00
42	do 12..	H. Cramer, fireman	75 00
42	do 12..	M. Adams, do	75 00
42	do 12..	P. Phineger, do	75 00
42	do 12..	E. Tobin, messenger	75 00

).	Date.	To whom, and for what appropriated.	Amount.
2	March 12..	L Merrill, messenger	75 00
2	do 12..	W. Slightam, do	75 00
2	do 12..	C. Menges, do	75 00
2	do 12..	Joseph Baker, sergeant at-arms senate	90 00
2	do 12..	O. J. Soper, ass't do do	75 00
2	do 12..	J. H. Preus, do do do	75 00
2	do 12..	J. J. Jones, post master senate	75 00
2	do 12..	H. Morley, do do	75 00
2	do 12..	G. Stearns, door keeper senate	75 00
2	do 12..	D. L. Thayer, do do	75 00
2	do 12..	A. Rowse	75 00
2	do 12..	S. C. Bangs	75 00
2	do 12..	O. Woodward	75 00
2	do 12..	Patrick White, messenger senate	75 00
2	do 12..	Arthur T. Howe, do do	75 00
3	do 12..	Gleason & Memhard, account rendered	130 50
4	do 13..	Sup't of public instruction, dictionaries	338 93
5	do 14..	Parson & Blair, lamp fixtures, &c	111 00
6	do 14..	J. F. Burchard, furniture	702 00
7	do 14..	Alex. G. McBride, wood, posts and trees	1,493 75
8	do 14..	Boyd & Ledyard, account rendered	1,235 89
9	do 14..	Sup't of public property, revised statutes	75 00
50	do 14..	Edward H. Janssen, clerks' wages paid by him.	250 00
51	do 14..	Mallo & Thayer, publishing	5 20
52	do 15..	John M. Schroeck, sup't constructing prison	200 00
53	do 18..	Weed & Eberhard, books and stationery	1,277 44
54	do 18..	David M. Parker, making blinds	237 75
55	do 18..	Andrew Bishop, serving requisition	345 00
56	do 19..	Andrew Bishop, attendance on Supreme Court	508 00
57	do 19..	Deaf and dumb, education of	7,000 00
57	do 19..	Deaf and dumb, repairs of building	300 00
58	do 19..	Falvey & St. George, stair plates for capitol	262 21
59	do 20..	Frederick W. Horn, emigrant agent	800 00
60	do 20..	Calkins & Proudfit, state printing for 1855	5,260 62
61	do 20..	Edward Beaver, conveying state prisoner	14 25
62	do 20..	John Catlin, rent of room	125 00
63	do 21..	Tibbits & Gordon, sundries	764 38
64	do 21..	James Halpin, sup't of public property	348 00
65	do 22..	Billings & Carman, materials furnished	1,090 00
66	do 21..	Weed & Eberhard, stationery	636 68
67	do 21..	J. A. Hall & Co., stationery	186 00
68	do 22..	Parkins, Harper & Co., lamp posts, &c	2,141 00
69	do 25..	John M. Schroeck, services on state prison	150 00
70	do 25..	Matthias Martin, night watch	365 00
71	do 27..	N. D. Burdick, serving requisition	82 24

No.	Date.	To whom, and for what appropriated.	Amount.
72	March 28..	James O. Bartlett, conveying state prison	$ 51 75
73	do 28..	V. W. Roth, gold pens	41 50
74	do 28..	E. Mosly, sergeant-at-arms assembly	54 00
74	do 28..	C. Sargeant, ass't do do	45 00
74	do 28..	M. Ten Eyck, ass't do do	45 00
74	do 28..	A. S. Gray, post master do	45 00
74	do 28..	P. Thomas, ass't do do	45 00
74	do 28..	S. Levy, ass't do do	45 00
74	do 28..	C. Grote, door keeper do	45 00
74	do 28..	J. Dean, ass't do do	45 00
74	do 28..	E. Slade, do do do	45 00
74	do 28..	M. Adams, fireman do	45 00
74	do 28..	P. Phinegar, do do	45 00
74	do 28..	E. Cramer, do do	45 00
74	do 28..	E. Tobin, messenger do	45 00
74	do 28..	L. Merrill, do do	45 00
74	do 28..	Wm. Slightam, do do	45 00
74	do 28..	C. Menges, do do	45 00
74	do 28..	Joseph Baker, sergeant-at-arms senate	54 00
74	do 28..	O. J. Soper, ass't do do	45 00
74	do 28..	J. H. Preus, ass't do do	45 00
74	do 28..	J. J. Jones, post master do	45 00
74	do 28..	Hiram Mosley, ass't post master do	45 00
74	do 28..	G. Stearns, door keeper do	45 00
74	do 28..	D. L. Thayer, do do	45 00
74	do 28..	A. Rouse, fireman do	45 00
74	do 28..	S. C. Bangs, do do	45 00
74	do 28..	A. Woodward, do do	45 00
74	do 28..	A. T. Howe, messenger do	45 00
74	do 28..	Patrick White, do do	45 00
75	do 28..	Matthias Martin, sen, services about capitol	125 00
76	do 28..	Joseph Gates, conveying state prisoner	272 39
77	do 28..	Edmond Gibbs, fixing gas, &c	53 27
78	do 28..	Rood & Goodrich, stationery, &c	32 00
79	do 28..	J. J. Ehle, conveying state prisoner	72 25
80	do 28..	Wellstood, Hanks, Hay & Whiting, printing	101 25
81	do 28..	Charles Smith, serving requisition	86 00
82	do 28..	D. K. Warren, serving requisition	75 65
83	do 28..	John W. Hunt, room rent	10 00
84	do 28..	E. H. Janssen, work done under banking law	500 00
85	do 28..	Heinrich Seifert, geological maps	200 00
86	do 28..	A. F. Gallup, conveying prisoners	300 00
87	do 28..	Lorania Bird, services of her husband	200 00
88	do 28..	Dunning & Paine, sundries	78 37
89	do 28..	Thomas McGlin, sen., services about capitol	140 00

No.	Date.	To whom, and for what appropriated.	Amount.
90	March 29	Peter Lavis, Joint committee to visit the Deaf and Dumb Institute	$ 20 00
90	do 29	A. A. Bird, Joint committee to visit the Deaf and Dumb Institute	20 00
90	do 29	G. E. Dexter, Joint committee to visit the Deaf and Dumb Institute	20 00
90	do 29	J. Sutherland, Joint committee to visit the Institute for the Blind	15 00
90	do 29	C. Walker, Joint committee to visit the Institute for the Blind	15 00
90	do 29	D. D. Cameron, Joint committee to visit the Institute for the Blind	15 00
90	do 29	D. Worthington, Expenses as Joint Committee to visit the State Prison	25 00
90	do 29	Edward Pier, Expenses as Joint Committee to visit the State Prison	25 00
90	do 29	A. Greulich, Expenses as Joint Committee to visit the State Prison	25 00
90	do 29	P. Johnson, Expenses as Joint Committee to visit the State Prison	25 00
90	do 29	H. Crawford, Expenses as Joint Committee to visit the State Prison	25 00
91	do 29	J. W. Ackerman, preparing iron for prison	1,012 03
92	do 29	L. B. Dodge, sundries furnished prison	89 44
93	do 31	Anton Barlin, services in and about capitol	124 50
93	do 31	Moritz Pritzsch do do	124 50
93	do 31	Matthias Martin, jr., do do	124 50
93	do 31	John Hollihan, do do	124 50
93	do 31	Thomas McGlin, sen., do do	124 50
93	do 31	Matthias Martin, sen., do do	124 50
93	do 31	Pierson Wood, do do	124 50
93	do 31	John Kiner, do do	124 50
93	do 31	James Doglin, do do	124 50
93	do 31	Patrick Galooly, do do	124 50
93	do 31	Hugh Kelley, do do	124 50
93	do 29	Constantine Abaly, do do	124 50
93	do 29	Thomas Dorhorty, do do	124 50
93	do 29	Charles Eastman, do do	124 50
93	do 29	James B. Briton, chaplain	50 00
93	do 29	James Cooper, do	50 00
93	do 29	H. M. Hinebaugh, do	50 00
93	do 29	Francis Etchman, do	50 00
93	do 29	N. H. Eggleston do	50 00
93	do 29	Henry F. Bond, do	50 00
94	do 29	T. B. Elliot, services before committee	200 00
95	do 29	John Wright, account rendered	38 75
96	do 31	O. M. Dering, sheriff of La Fayette	68 50
97	do 31	Shœffler & Wendt, papers for legislature	447 14
98	do 31	Calkins & Proudfit	520 20
99	do 31	Commissioner of State Prison, main building	10,000 00
100	do 31	Atwood & Rublee, printing	100 00
101	do 31	Shœffler & Wendt, advertisements	77 38
102	do 31	D. H. Wright, ass't sup't of public property	441 93
103	do 31	S. G. Stacy, acting state superintendent	200 00
104	do 31	Rublee & Gary, advertising	18 40
105	do 31	Com'r. of State Prison, defraying expenses	23,000 00

No.	Date.	To whom, and for what appropriated.	Amount.
106	March 31..	Sloan & Stewart, material, lunatic asylum....	$ 50 00
107	do 31..	O. C. Buck & Co., furniture.....	68 63
108	do 31..	R. W. Lansing, clerk in superintendent's office.	50 00
109	do 31..	S. V. Shipman, plans and specifications.....	45 00
110	do 31..	S. G. Benedict, stamps for offices.....	60 00
111	do 29..	Matthias Martin, night watch.....	67 00
112	do 31..	Simeon Mills, investigating.....	260 00
112	do 31..	James R. Mears, do	245 00
112	do 31..	Edward Illsley, do	210 00
112	do 31..	W. T. Atwood, do	65 00
112	do 31..	W. H. Hampson, do	60 00
112	do 31..	Simeon Dean, do	55 00
112	do 31..	C. M. H. Meyers, do	47 50
112	do 31..	D. W. Driggs, do	45 50
113	do 29..	Calkins & Proudfit, printing.....	4,806 45
114	do 29..	Daniel Noble Johnson, writing.....	156 00
115	do 31..	Jonathan Olive, conveying state prisoner.....	220 00
116	do 29..	James Hickcox, services in library.....	200 00
117	do 31..	D. K. Warren, sheriff, Waukesha.....	85 00
118	do 31..	William Lamp, services about capitol.....	31 76
119	do 31..	Samuel R. Fox, Hardware.....	30 00
120	do 31..	John Taylor, painting state prison.....	114 59
121	do 31..	La Fayette Kellogg, clerk supreme court.....	202 68
122	do 31..	A. W. Stark, late state prison commissioner...	272 28
123	do 31..	S. S. Conover, conveying state prisoner.....	385 00
124	do 31..	Levi S. Avery, conveying state prisoner.....	93 50
125	Sept'r. 16..	C. B. Carrington, deputy sheriff of Dodge....	22 75
126	do 26..	Joseph Baker, sergeant-at-arms senate.....	83 00
126	do 26..	Egbert Mosely, do assembly.....	83 00
127	do 27..	William F. Beaver, surveying.....	9 00
128	do 19..	B. B. Baldwin, work done at state prison.....	19 50
129	do 29..	R. Carrington, order accepted by state.....	80 00
130	October 1..	James Halpin, sup't of public property.....	247 71
131	do 6..	Calkins & Proudfit, state printers.....	11,024 83
132	do 6..	J. H. Preus, stationery for legislature.....	3,000 00
133	do 6..	Joseph Baker, summoning witnesses.....	39 90
134	do 6..	Cin'ti type foundry, assignees of R. King & Co.	3,200 00
135	do 7..	Byron Paine, chief clerk senate.....	500 00
135	do 7..	James Armstrong, chief clerk assembly.....	500 00
135	do 7..	L. C. McKenny, ass't clerk senate.....	400 00
135	do 7..	Wm. P. Dewey, ass't clerk assembly.....	400 00
135	do 7..	D. S. Griffin, transcribing clerk.....	250 00
135	do 7..	E. Stansbury, do do	250 00
135	do 7..	Wm. E. Carter, enrolling do	250 00
135	do 7..	J. G. Sadd, do do	250 00

No.	Date.	To whom, and for what appropriated.	Amount.
136	October 9..	Daniel H. Chandler, reports of supreme court	$ 600 00
137	do 10..	Adams & Wilson, hardware	97 90
138	do 9..	Samuel R. Fox, hardware	244 43
139	do 9..	Temple Clark, clerk to prepare code	20 00
139	do 9..	James Hopkins, do do	20 00
139	do 9..	Samuel Dunn, clerk land grant committee	15 00
140	do 9..	D. S. Durrie, Wisconsin reports	130 50
140	do 9..	Weed & Eberhard, do	144 00
141	do 9..	David H. Wright, carpenter work	46 00
142	do 9..	S. G. Benedict, machine stamps	42 75
143	do 9..	Matthias Martin, sen., work about capitol	83 00
143	do 9..	Pierson Wood, do do	83 00
143	do 9..	A. M. Pritsch, do do	83 00
143	do 9..	John Hollihan, do do	83 00
143	do 9..	Thomas McGlinn, sen., do do	83 00
143	do 9..	John Riner, do do	83 00
143	do 9..	James Doolin, do do	83 00
143	do 9..	Patrick Galluly, do do	83 00
143	do 8..	Constantine Ablis, do do	83 00
143	do 9..	Thomas Dougherty, do do	83 00
143	do 9..	Matthias Martin, 2nd do do	83 00
144	do 9..	Joseph Keyes, ass't supt of public property	412 50
145	do 11..	D. S. Durrie, books and stationery	117 86
146	do 11..	Andrew Sexton, notes and references to laws	67 38
147	do 11..	James Murdock, selecting land	495 00
148	do 11..	E. Moseley, sergeant-at-arms assembly	250 00
148	do 11..	Joseph Baker, do senate	250 00
148	do 11..	D. L. Thayer, ass't do do	200 00
148	do 11..	James Halpin, ass't sergeant at-arms assembly	200 00
148	do 11..	Alfred Woodward, do senate	150 00
148	do 11..	G. L. Long, do do	150 00
148	do 11..	P. Thomas, post master assembly	150 00
148	do 11..	Duane Bird, ass't post master assembly	150 00
148	do 11..	J. J. Jones, post master senate	150 00
148	do 11..	Samuel K. Bangs, door keeper senate	150 00
148	do 11..	O. K. Lawrence, do do	150 00
148	do 11..	Simon Levy, do do	150 00
148	do 11..	Charles Sargent, do do	150 00
148	do 11..	J. Duffy, fireman senate	100 00
148	do 11..	J. Dolan, do do	100 00
148	do 11..	Matthias Martin	100 00
148	do 11..	Patrick White, messenger	100 00
148	do 11..	Arthur T. Howe, do	100 00
148	do 11..	Frederick Farr, do	100 00
148	do 11..	Charles E. Moseley, do	100 00

No.	Date.	To whom, and for what appropriated.	Amount.
148	Oct'r. 11	Andrew T. McCormick, messenger	$ 100 00
148	do 11	Byron Van Dyke, do	100 00
149	do 11	J. O. Henning, plats	25 00
150	do 11	Wm. H. Wallis, enrolling laws	50 00
151	do 11	Gleason and Houghton, hardware	70 02
152	do 11	J. H Preus, sup't of public property	160 00
153	do 11	Robert J. Smith, sundries	77 25
154	do 11	A. F. Phillips, military store keeper	368 00
155	do 11	P. Thomas, post master assembly	41 50
155	do 11	L. Levy, do do	41 50
155	do 11	J. J. Jones, do senate	41 50
155	do 11	D. L. Thayer, do do	41 50
156	do 13	Atwood & Rublee, papers for legislature	120 00
157	do 13	Marshall Ten Eyck, messenger	100 00
158	do 13	Weed & Eberhard, account rendered	663 65
159	do 13	S. S. Conover, sheriff of Milwaukee	150 00
160	do 13	J. A. Hall & Co., wall paper	73 00
161	do 15	Proprietors of the Emigranten, papers	50 00
162	do 13	Wm. H. Wallis and Jas. M. Flowers, enrolling	25 00
163	do 13	John F. Potter, sec'y of investigating	387 50
164	do 13	S. G. Benedict, services	9 00
165	do 13	M. R. Keegan, investigating	45 00
166	do 13	S.R.Fox & T.Brown, as'g's O.C.Buck & Co. fur'e	730 49
167	do 13	John W. Tierney, night watch	186 00
167	do 13	John Duffy, fireman	50 00
167	do 13	Matthias Martin, do	50 00
167	do 13	James Dolin, do	50 00
168	do 11	James O. Bartlett, sheriff of Racine	153 75
169	do 13	Samuel Klauber & Co., carpets, &c	536 38
169	do 13	D. C. Poole, account rendered	79 94
169	do 13	J. Cooper, chaplain	25 00
169	do 13	J. B. Britton, do	25 00
169	do 13	Francis Etchman, do	25 00
169	do 13	N. H. Eggleson, do	25 00
169	do 13	H. F. Bond, do	25 00
169	do 13	H. M. Heinbaugh, do	25 00
172	do 13	J. Gates, sheriff of Walworth	55 00
173	do 13	Alexander J. McBride, wood	200 00
174	do 13	Ethridge, Shoemaker & Co, boxes	22 03
175	do 13	Tibbitts & Gordon, hardware	237 83
176	do 13	James S. Baker, clerk investigating	50 00
177	do 13	Mears & Ripley, lumber	70 48
178	do 13	Wellstood, Hanks, Hays & Whiting, engraving	300 75
179	do 13	Joseph J. Ehle, sheriff of Kenosha	55 00
180	do 13	Lewis Lillie, safe and bank locks	1,000 00

o.	Date.	To whom, and for what appropriated.	Amount.
31	Oct'r. 13..	I. A. Lapham, services	50 00
32	do 13..	J. P. Atwood, taking deposition	30 00
33	do 13..	Joseph Keyes, ass't sup't of public property	93 00
34	do 13..	John Kean, services about capitol	100 00
34	do 13..	John Flood, do do	100 00
34	do 13..	Frank Smith, do do	100 00
34	do 13..	Matthias Weeks, do do	100 00
34	do 13..	Michael Goss, do do	100 00
34	do 13..	Ole Torgerson, do do	100 00
34	do 13..	Peter Cogue, do do	100 00
35	do 13..	E. W. Sherman, messenger	15 00
36	do 13..	J. D. Bradford, painting	283 50
87	do 13..	Charles Keuhn, freight, &c	148 25
88	do 13..	T. W. Geisse, clocks	10 50
89	do 13..	Dunning & Paine, account rendered	119 79
90	do 13..	James M. Flower, enrolling	20 00
91	do 13..	C. J. Kidd, work and materials	815 91
92	do 13..	Wm. H. Wallis, enrolling	25 00
93	do 13..	Bradford Brothers, carpeting	557 83
94	do 13..	Edward B. Forman, messenger	100 00
95	do 13..	Luke Kaly, work about capitol	83 00

STATE OF WISCONSIN, } ss.
SECRETARY'S OFFICE.

I, JOHN W. HUNT, Ass't Secretary of State, of the State of Wisconsin, do hereby certify that I have compared the foregoing list with the original acts of appropriations deposited in this office, and that the same is a complete list of all the appropriations made at the last session of the Legislature, except such as are printed at length in this volume.

In Testimony Whereof, I have hereunto set my hand, and affixed the Great Seal of the State, at the Capitol, in Madison, this 15th day of December, eighteen hundred and fifty seven.

[L. S.]

JOHN W. HUNT,
Ass't Secretary of State.

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